



Conducting a Content Validation Study for the California Bar Exam

Final Report

October 4, 2017

Submitted By:

Chad W. Buckendahl, Ph.D.
702.586.7386

cbuckendahl@acsventures.com

Contents

Executive Summary.....	3
Introduction	5
Current Examination Design	5
Study Purpose	5
Procedures	6
Panelists	6
Workshop Activities	7
Orientation.....	7
Content Validity Judgments	8
Analysis and Results.....	9
Content Sampling Across Years	12
Evaluating the Content Validation Study.....	14
Procedural.....	15
Internal.....	16
External	16
Utility.....	17
Process Evaluation Results.....	18
Gap Analysis.....	19
Conclusions and Next Steps.....	21
References	23
Appendix A – Panelist Information	24
Appendix B – Content Validation Materials and Data	25
Appendix C – Evaluation Comments.....	26

Executive Summary

The California Bar Exam recently undertook a content validation study to evaluate the alignment of content and cognitive complexity on their exams to the results of a national job analysis. This study involved gathering judgments from subject matter experts (SMEs) following a standardized process for evaluating examination content, discussing judgments made by the SMEs, summarizing these judgments, and evaluating the representation of content on the examination.

In this process, content validation judgments for the assessments were collected on two dimensions – content match and cognitive complexity. The Written and Multistate Bar Exam (MBE) components of the examination were evaluated for their match to the results of the National Conference of Bar Examiners' (NCBE) 2012 job analysis in terms of content and cognitive complexity as defined by an adaptation of Webb's (1997) Depth of Knowledge (DOK). For the constructed response items (i.e., essay questions, performance task), score points specified in the scoring rubric were evaluated separately to acknowledge the potential for differential alignment evidence (i.e., that different aspects of the scoring criteria may measure different knowledge, skills, or abilities). Because MBE items were not available for the study, the subject areas as described in the publicly available content outline were reviewed and evaluated based on their proportional contribution to the examination.

Summary results suggested that all content on the examination matched with job-related expectations for the practice of law. The cognitive complexity for the written component of the examination as measured by DOK was also consistent with the level of cognitive complexity (e.g., analysis vs. recall) expected of entry-level attorneys. In addition, a review of the content sampling of the examination over time suggests that most content on the examination is consistent with content expected for entry level practice. The sampling plan and the current representation of knowledge and skills when considering the combination of the Written and MBE components of the examination suggest stable representation year to year. This is discussed in more detail in the body of the report. However, there are opportunities for improvement in both the content representation and sampling plan of the existing subject areas.

Results from the judgment tasks and qualitative feedback from panelists also suggested some formative opportunities for improvement in the structure and representation of content on the examination that could be considered. As recommended next steps for the California Bar Examination in its evaluation of its design and content, the results of the gap analysis and feedback from panelists provide a useful starting point for further discussion. Specifically, from the results of the national survey, skills and tasks were generally interpreted as more generalizable than many of the knowledge domains. Given the diversity of subject areas in the law, this is not surprising. At the same time, it may also suggest that a greater emphasis on skills could be supported in the future. To answer this question, further study is warranted. This additional study would begin with a program design that leads to a job analysis for the practice of law in California. As an examination intended to inform a licensure decision, the focus of the measurement of the examination needs to be on practice and not on the education or training programs. Through this combination of program design and job analysis, results would inform and provide evidence for decisions about the breadth and depth of measurement on the examination along with the relative emphasis (e.g., weighting) of different components.



While the results of this study provided evidence to support the current iteration of the examination, there are also formative opportunities for the program to consider in a program redesign. Specifically, the current design and format for the California Bar Examination has been in place for many years. Feedback from the content validation panelists suggested that there are likely subject areas that could be eliminated or consolidated to better represent important areas needed by all entry-level practitioners. From a design perspective, it may be desired to define the components of the examination as a combination of a candidate's competency in federal law, California-specific law, and job-related lawyer skills. Further, if the MBE continues to be included as part of the California Bar Examination, it would be important to be able to review the items on a recently operational form (or forms) of the test to independently evaluate the content and cognitive complexity of the items. If the California is unable to critically review this component of their program, it should prompt questions about whether it is appropriate to continue to include it as part of their examination.

Similarly, such a redesign activity would offer the program an opportunity to evaluate the assessment item types of the examination (e.g., multiple choice, short answer, extended response), scoring policies and practices for human scored elements (e.g., rubric development, calibration, evaluation of graders), alternative administration methods for components (e.g., linear on the fly, staged adaptive, item level adaptive), and alternative scoring methods for constructed response (e.g., automated essay scoring). Advances in testing practices and technologies as well as the evolution of the practice of law since the last program design activity suggest that this interim study may facilitate additional research questions. As an additional resource about the current practices within credentialing programs, interested readers are encouraged to consult Davis-Becker and Buckendahl (2017) or Impara (1995).

For licensure examination programs, in terms of evidence to define content specifications, the primary basis for evidence of content validity come from the results of a job analysis that provides information about the knowledge, skills, and abilities for entry-level practitioners. Although the results of the 2012 NCBE job analysis were used for this study, it would be appropriate for the program to conduct a state-specific study as is done for other occupations in California to then be used to develop and support a blueprint for the examination. The specifications contained in the blueprint are intended to ensure consistent representation of content and cognitive complexity across forms of the examination. This would strengthen the content evidence for the program and provide an opportunity for demonstrating a direct link between the examination and what occurs in practice. These two activities – program design and job analysis – should be considered as priorities with additional redevelopment and validation activities (e.g., content development, content review, pilot testing, psychometric analysis, equating) occurring as subsequent activities.

Recognizing the interrelated aspects of validation evidence for testing programs, it is valuable to interpret the results of this study and its potential impact on the recently conducted standard setting study for the California Bar Examination. Specifically, the results of the content validation study suggested that most of the content on the examination was important for entry level practice without substantive gaps in what is currently measured on the examination compared with what is expected for practice. However, if the examination is revised in the future, it would likely require revisiting the standard setting study.

The purpose of this report is to document who was involved in the process, processes that were used, results of the content validation study, conclusions about content validity of the examination, and recommendations for next steps in the examination development and validation process.

Introduction

The purpose of licensure examinations like the California Bar Exam is to distinguish candidates who are at least minimally competent from those that could do harm to the public (i.e., not competent). This examination purpose is distinguished from other types of exams in that licensure exams are not designed to evaluate training programs, evaluate mastery of content, predict success in professional practice, or ensure employability. As part of the validation process for credentialing examinations, a critical component includes content validation (see Kane, 2006). Content validation involves collecting and evaluating evidence of alignment of content (e.g., knowledge, skills, abilities) and cognitive processing (e.g., application, analysis, evaluation) to established job-related knowledge, skills, abilities, and judgments. Substantive overlap between what is measured by the examination and what is important for entry level practice is needed to support an argument that the content evidence contributes to valid scores and conclusions.

Current Examination Design

The California Bar Exam is built on multiple components intended to measure the breadth and depth of content needed by entry level attorneys. Beginning with the July 2017 examination, these components include the Multistate Bar Exam (MBE) (175 scored and 25 unscored multiple-choice questions), five essay questions, and a performance task. The combined score for the examination weights the MBE at 50% and the written response components at 50% with the performance task being weighted as twice as much as an essay question.¹ A decision about passing or failing is based on the compensatory performance of applicants on the examination and not any single component. This means that a total score is used to make decisions and no one question or task is determinant of the pass/fail determination.

Study Purpose

The purpose of this study was to evaluate the content representation and content complexity of the California Bar Examination in comparison with the results of a job analysis conducted by the National Conference of Bar Examiners (NCBE) in 2012. To collect the information to evaluate these questions, Dr. Chad Buckendahl of ACS Ventures, LLC (ACS) facilitated a content validation workshop on June 6-8, 2017 in San Francisco, CA. The purpose of the meeting was to ask subject matter experts (SMEs) to make judgments about the content and cognitive complexity of the components of the California Bar examination.

This report describes the sources of validity evidence that were collected, summarizes the results of the study, and evaluates the results using the framework for alignment studies suggested by Davis-Becker and Buckendahl (2013). The conclusions and recommendations for the examination program are based on this evaluation and are intended to provide summative (i.e., decision making) and formative (i.e., information for improvement) feedback for the California Bar Examination.

¹ Before July 2017, the written section of the bar exam was weighted 65 percent of the total score and consisted of six essay questions and two performance test questions administered over two days.

Procedures

The content validation approach used for the study relies on the content and cognitive complexity judgments suggested by Webb (1997). In this method, panelists make judgments about the cognitive complexity and content fit of exam items or score points relative to content expectations. For this study, those content expectations were based on the 2012 NCBE job analysis supplemented by links to the U.S. Department of Labor's O*NET² regarding lawyers that was updated in 2017.

A job analysis is a study often conducted every five to seven years to evaluate the job-related knowledge, skills, and abilities that define a given profession. Conducting a job analysis study for a profession can often take 9-12 months to complete. In using the results from the NCBE study as a reference point, these data were within the typical range for conducting these studies and it was a readily available resource given the timeline under which the California Bar Exam was asked to provide evidence of content validation of its examination.

Panelists

Ten panelists participated in the workshop and were recruited to represent a range of stakeholder groups. These groups were defined as Recently Licensed Professionals (panelists with less than five years of experience), Experienced Professionals (panelists with ten or more years of experience), and Faculty/Educator (panelists employed at a college or university). A summary of the panelists' qualifications is shown in Table 1.

Table 1. Profile of content validation workshop panel

Race/Ethnicity	Freq.	Percent	Gender	Freq.	Percent
Asian	1	10.0	Female	5	50.0
Black	2	20.0	Male	5	50.0
Hispanic	1	10.0	Total	10	100.0
White	6	60.0			
Total	10	100.0			
Nominating Entity	Freq.	Percent	Years of Practice	Freq.	Percent
ABA Law Schools	2	20.0	5 Years or Less	2	20.0
Assembly Judiciary Comm.	1	10.0	>=10	8	80.0
Board of Trustees	1	10.0	Total	10	100.0
BOT – COAF ³	3	30.0			
CALS Law Schools	1	10.0	Employment type	Freq.	Percent
Registered Law Schools	1	10.0	Academic	3	30.0
Senior Grader	1	10.0	Large Firm	2	20.0
			Non Profit	1	10.0
			Small Firm	1	10.0
			Solo Practice	3	30.0

² The O*NET is an online resource when evaluating job-related characteristics of professions. See <https://www.onetonline.org/> for additional information.

³ Council on Access & Fairness.

Workshop Activities

The California Bar Exam content validation workshop was conducted June 6-8, 2017 in San Francisco, CA. Prior to the meeting, participants were informed that they would be engaging in tasks to evaluate the content and cognitive complexity of the components of the California Bar Examination. The content validation process included an orientation and training followed by operational alignment judgment activities for each essay/performance task and MBE subject area, as well as written evaluations to gather panelists' opinions of the process. Workshop orientation and related materials are provided in Appendix B.

Orientation

The meeting commenced on June 6th with Dr. Buckendahl providing a general orientation and training for all panelists that included the goals of the meeting, an overview of the examination, cognitive complexity levels, and specific instructions for panel activities. Additionally, the orientation described how the results would be used by policymakers and examination developers to evaluate the current structure and content representation of the examination.

Specifically, the topics that were discussed in the orientation included:

- The interpretation and intended use of scores from the California Bar Exam (i.e., licensure)
- Background information on the development of the California Bar Exam
- Summary results of the NCBE job analysis and O*NET descriptions
- Purpose of alignment information for informing validity evidence

After this initial orientation, the panel was trained on the alignment processes that were used. This training included discussions of the following:

- Cognitive complexity framework – understanding each level, evaluating content framework
- Content match – evaluating fit of score points or subject areas to job-related content
- Decision making process – independent review followed by group consensus

After the training, the panelists began making judgments about the examination. Their first task involved making judgments about the intended cognitive complexity of the knowledge, skills, abilities, and task statements from the 2012 NCBE job analysis. The cognitive complexity framework used for this study was an adaptation of Webb's (1997) Depth of Knowledge (DOK) for a credentialing exam. The DOK levels represent the level of cognitive processing associated with performing a task or activity. Lower DOK levels correspond to cognitive processes such as recall or remembering while higher levels correspond to application of knowledge, analysis, or evaluation. Within Webb's (1997) framework, Level 1 is defined as recall and reproduction, Level 2 is defined as working with skills and concepts, Level 3 is defined as short-term strategic thinking, and Level 4 is defined as extended strategic thinking. For this study, Level 1 was defined as recall or memorization, Level 2 was further clarified as representing the understanding and application level of cognitive process, Level 3 was defined as analysis and evaluation, and Level 4 was defined as creation of new knowledge.

Within psychological measurement, the depth of cognitive processing is considered in combination with the content to ensure that the claims made about candidates' abilities are consistent with the target construct. The DOK framework is one of many potential scales that can be used to evaluate this aspect of content.

Another commonly used model comes from Bloom (1956) and defines cognitive processes being knowledge, comprehension, application, analysis, synthesis, and evaluation. The inclusion of cognitive complexity as a consideration in the evaluation of the content validity of the California Bar Exam is important because it provides information on not only *what* may be needed on the examination, but *at what cognitive level* should candidates be able to function with the content. Procedurally, after rating the DOK of the first few statements as a group, panelists made judgments independently followed by consensus discussions. This consensus judgment was then recorded and used for the subsequent analysis.

Content Validity Judgments

Although characterized as “content,” content validation is inclusive of judgments about both cognitive complexity and content match. After a review of the knowledge and task statements from the job analysis, the panelists began reviewing the components of the examination. For these components, panelists made independent judgments regarding the content match with the results of the NCBE job analysis. To calibrate the group to the process and the rating tasks, some of the judgments occurred as a full group facilitated discussions with other judgments occurring independently followed by consensus discussions. At key phases of the process panelists completed a written evaluation of the process including how well they understood the alignment tasks, their confidence in their judgments, and the time allocated to make these judgments.

On the first day, panelists reviewed and determined the cognitive complexity levels of each knowledge and task statement of the job analysis. This activity was done to establish the expected depth of knowledge (DOK) associated with the respective knowledge, skill, and ability (KSA). A summary of the results from these judgments suggested that most KSAs were judged to be at Levels 2 and 3 of the DOK framework. This means that most of the California Bar Examination is expected to measure candidates’ abilities at levels beyond recall and memorization, specifically at the understanding, application, analysis, and evaluation levels. As shown below in Table 2, the current examination illustrates measurement expectations consistent with these expectations.

On the second day, the panel began making alignment judgments on the essay questions with the first one occurring as a full group activity. This was then followed by dividing up the task to have two subgroups each evaluate two essay questions and come to consensus on the judgments. After completing judgments on the essay questions, the full group then reviewed the expected content and DOK for the performance task and discussed the representation of content/skills. The third day then involved a full group facilitated discussion where judgments about the representation of domains of the MBE examination to evaluate proportional contribution to the overall content representation.

These judgment activities were followed by a facilitated discussion about content that could be measured on the examination that was not discussed (e.g., subject areas that were measured in other years). A related part of this brief discussion was where content that is eligible for sampling on the California Bar Exam may be more appropriately represented (e.g., Bar Examination, MCLE). These results are included in the evaluation section of this report, but should not be interpreted as a program design or redesign activity. The inclusion of this part of the study responded to a request to gather some high-level information as a starting point for additional exploration of how the California Bar Examination should be defined and structured.

Analysis and Results

The content validation findings are intended to evaluate the following questions:

- What is the content representation of the California Bar Exam essay questions, performance task, and MBE subject areas relative to the knowledge and task statements of the NCBE job analysis?
- What knowledge and task statements from the NCBE job analysis are NOT covered by the California Bar Exam?
- What California Bar Exam content does NOT align with the knowledge and task statements of the NCBE's 2012 job analysis?

There are currently 13 subject areas that can be sampled on the written portion of the California Bar Exam. This means that not all subject areas can be included each year and need to be sampled over time. To answer these content validation questions, the proportional contribution (i.e., percentage) of each exam component was estimated to approximate the distribution of content for the examination. This distribution is influenced by the sampling of content that occurs on the examination each year. As noted, each of the 13 subject areas cannot be included each year, so the content specifications require sampling to occur over multiple years.

For example, if a Real Property essay question is included for an examination, we would expect to see greater representation of the Real Property subdomain relative to years where this subject area is not included as part of the sampling plan. This is also why consideration was given to the content sampling plan for the program and not any single year. To apply a content sampling approach, it is important that the examination meet an assumption of unidimensionality (i.e., there is a dominant construct that is measured by the exam). If this assumption is met, then the variability of content year-to-year does not pose a significant threat to the validity of interpretations of the scores, even if there is an intuitive belief about what content should or should not be on the examination.

To illustrate the effect of the content sampling over time, it is important to understand what parts of the examination are constant versus variable across years. With the weighting of the exam beginning in July 2017 being 50% from the Multistate Bar Exam (MBE) and 50% from the written component (i.e., essay questions and performance task, we can calculate how much each part of the examination contributes to the whole. This breakdown is shown here:

Multistate Bar Exam (50%)

- The MBE is comprised of seven subject area sections, each with 25 scored questions. This means that each of these sections contributes approximately 7% to the total score (i.e., 1 section divided by 7 total sections and then multiplied by 50% to reflect that the MBE is only half of the exam).
- The blueprint for the MBE is fixed, meaning that the same seven content areas are measured each year. Therefore, the representation of content from this exam is consistent year-to-year until any changes are made to the blueprint.

Written Component (50%)

- The written component of the examination is comprised of five essay questions and one performance task that is weighted twice as much as one essay question. This means that for the written component, each of the five essay questions represent approximately 7% of the total score and the performance task represents approximately 14% of the total score (i.e., 1 essay

question divided by 7 total scoring elements [the performance task is calculated as 2 divided by 7 total scoring elements to reflect the double weighting] and then multiplied by 50% to reflect that the written component is only half of the exam.

- The blueprint for the written component is fixed with respect to the number of essay questions and performance task, but there is content sampling that occurs across the 13 subject areas currently eligible for selection. However, one of these subject areas, Professional Responsibility, is represented each year on the examination. Additional discussion about the potential impact of content sampling is discussed below.

The summary matrix in Table 2 represents the combination of information from the cognitive complexity ratings (reflected as Depth of Knowledge levels) in addition to the proportion of aligned content. For efficiency, the results are included for areas of content that were judged to align. Note that there were no components or subcomponents of the California Bar Exam that did not align with knowledge and task statements from the job analysis. There were, however, some areas suggested by the job analysis that could be considered in future development efforts by the Bar Exam that are discussed in the Conclusions and Next Steps section of this report.

Additional explanation is needed for readers to interpret the information presented in Table 2. Within the table, the first two columns refer to the knowledge, skills, abilities, or general tasks that were part of the summary results from the NCBE job analysis. Information in the third column relies on a coding scheme where K-1 refers to the first knowledge statement, S-1 refers to the first skill statement, A-1 refers to the first ability statement, T-1 refers to the first task statement in the O*NET framework. Other links within this framework will associate a letter and numerical code to the appropriate statement (e.g., K-2 refers to the second knowledge statement, T-3 refers to the third task statement). This information is provided to illustrate alignment with a concurrent source of evidence regarding knowledge, skills, abilities, and tasks that may be representative of entry-level practice. For interested readers, the narrative descriptions of these links to the O*NET that were used by panelists are provided in Appendix B.

The Statement DOK column provides information about the expected cognitive complexity for entry-level lawyers on the given knowledge, skill, ability, or task statement with lower numbers being associated with lower levels of cognitive complexity on the 1 (recall or memorization), 2 (understanding and application), 3 (analysis and evaluation) and 4 (creation) scale described above.

In the last three columns of Table 2, information about the estimated percent of the examination that was represented by content on the July 2016 administration with an important caveat. Because the goal of the content validation study was to evaluate the content representation that may occur on the California Bar Examination based on the new examination format that began in July 2017, we selected five essay questions and a performance task as representative of how an examination could be constructed without regard to specific content constraints (i.e., specific subject areas that may be included). This means that the interpretation of the results is dependent on the content sampling selected for the study. This concept is further discussed in the next section.

As described above, to calculate the percentage of coverage for a given content area, we first applied the weights to the respective components of the examination (i.e., 50% for the essays and performance task [written] component, 50% for the multistate bar exam [MBE]). We then calculated the proportion of each subsection within a component based on its contribution to the total score. For example, each essay question



is weighted equally with the performance task weighted twice as much as an essay question. This means that within the written component, there are six questions where one of the questions is worth twice as much. Proportionally, this means that each essay question is worth approximately 14% of the written component score whereas the performance task is worth approximately 28% of the written component score.

However, because the written component only represents half of the total test score, this means that these percentages are multiplied by 50% to determine the weight for the full examination (i.e., approximately 7% for each essay question, 14% for the performance task). The same calculation was applied to the seven equally weighted sections of the MBE. Ratings from panelists on each of the essay questions, performance task, and the content outline from the MBE were communicated as consensus ratings and based on proportional contributions of knowledge, skills, and abilities. These proportions could then be analyzed as weights based on the calculations described above to determine the component and overall content representation.

Table 2. Consolidated content validation results with approximate percentage of representation.

			% of Exam			
	Knowledge, Skills, Abilities and Tasks from the NCBE Job Analysis Survey	Link to O*NET	Statement DOK	Essays and PT	MBE	Total
Section I. Knowledge Domains⁴						
1	Rules of Civil Procedure	K-1	2	4%	4%	7%
2	Other Statutory and Court Rules of Procedure	K-1	1	-	4%	4%
3	Rules of Evidence	K-1	2	-	7%	7%
10	Contract Law ⁵	K-1	2	3%	7%	10%
11	Tort Law	K-1	2	-	4%	4%
12	Criminal Law	K-1	2	-	7%	7%
13	Rules of Criminal Procedure ⁶	K-1	2	-	-	0%
14	Other Privileges ⁷	K-1	2	-	-	0%
15	Personal Injury Law	K-1	1	-	4%	4%
19	Principles of Electronic Discovery ⁸	K-1	1	1%	-	1%
20	Real Property Law	K-1	2	3%	7%	10%
21	Constitutional Law ⁹	K-1	2	3%	7%	10%

⁴ Note that a current content constraint of the examination is that Professional Responsibility and Ethics is represented on each form of the test. When this content area is included it would reduce the representation of another content area that would be sampled.

⁵ MBE content for this area was also judged to partially align with Real Property.

⁶ MBE content for this area was also judged to partially align with Criminal Law and Procedure.

⁷ MBE content for this area was also judged to partially align with Evidence.

⁸ MBE content for this area was also judged to partially align with Civil Procedure.

⁹ MBE content for this area was also judged to partially align with Civil Procedure, Criminal Law and Procedure, and Torts.

24	Family Law	K-1	2	3%	-	3%
Section II. Skills and Abilities						
87	Written communication	S-9, A-5	3	4%	-	4%
93	Critical reading and comprehension	S-3, A-3	3	3%	-	3%
94	Synthesizing facts and law	A-7	3	8%	-	8%
95	Legal reasoning	A-6, A-7	3	15%	-	15%
100	Issue spotting	S-5	3	1%	-	1%
108	Fact gathering and evaluation	S-5	3	2%	-	2%
Section III. General Tasks						
123	Identify issues in case	T-1, T-12	2	2%		2%
Total				50%	50%	100% ¹⁰

As shown in the footnotes of Table 2, there were areas of the MBE that could represent additional areas of content. However, the extent of that alignment is unknown because we did not have access to the actual test items; only the publicly available content outline. As a result, this report includes the judgments from the panel as a reference point for future study if the actual forms of the MBE are available for external evaluation in the future. To avoid speculation for this report, we did not estimate the potential contribution of these additional areas and only noted them.

Content Sampling Across Years

As noted above, the written component of the examination currently samples from 13 subject areas. Table 3 shows the number of times that each of these subject areas has been represented by essay questions over the last decade. This information is useful to evaluate whether the content emphasis is consistent with the subject areas that have been judged as more or less important in the practice analysis. In noting that one of the subject areas, Professional Responsibility, is sampled every year, we would expect some variability in the other four essay questions as subjects are sampled across years. Note that the performance is not related to the subject area and focuses specifically on lawyer skills, so the proportional measurement of these abilities also appears to be consistent across years.

¹⁰ Note that totals for each component of the examination and overall will not equal 100% due to rounding.



Table 3. Representation of subject areas from 2008-2017 (n=20 administrations).

Subject area	Frequency of representation¹¹	Rating of significance¹²	Percent Performing¹³
Professional Responsibility	19	2.83	93%
Remedies	12	N/A ¹⁴	N/A
Business Associations	11	2.33	67%
Civil Procedure	10	3.08	86%
Community Property ¹⁵	10	2.23	53%
Constitutional Law	10	2.29	76%
Contracts	10	2.67	84%
Evidence	10	3.01	81%
Torts	10	2.50	61%
Criminal Law and Procedures	9	2.50/2.47 ¹⁶	54%/54%
Real Property	9	2.30	56%
Trusts	7	1.95	44%
Wills	7	2.21	46%

¹¹ Frequency is defined as the number of times a subject area was represented as a main or crossover topic on the California Bar Examination from 2008-2017.

¹² Ratings are based on the average Knowledge Domain ratings for the 2012 NCBE Job Analysis study on a scale of 1 to 4 with values closer to 4 representing more significant content.

¹³ Ratings are based on the percentage of respondents indicating that they perform the knowledge for the 2012 NCBE Job Analysis study. Values range from 0% to 100% with higher percentages indicating that more practitioners perform the knowledge.

¹⁴ Remedies does not align with a single Knowledge Domain because it crosses over multiple, substantive areas of practice in law.

¹⁵ Community Property was interpreted to be part of Family Law.

¹⁶ Criminal Law and Procedures were asked as separate Knowledge Domain statements. Each significance rating is included.

For the essay questions in this study, panelists judged each one as measuring approximately 50% of the subject area knowledge (e.g., real property, contracts) and 50% of lawyer skills (e.g., application of law to facts, analysis, reasoning). This means that for a given essay question, the measurement of the subject area knowledge represents approximately 3.6% of the total examination (i.e., each essay question contributes approximately 7% to the total score (7.14% to be more specific), so if 50% of this is based on the subject area, 7% multiplied by 50% results in approximately 3.6% of the measurement being attributable to the subject area).

Knowing that the current sampling plan includes Professional Responsibility effectively yearly along with the performance task, this means that subject area sampling only applies to the four essay questions that may represent a different subject area year-to-year. In aggregate, this means that the potential variability in the measurement of the examination across years is approximately 14%-15% (i.e., 3.6% multiplied by the 4 essay questions). Another way to communicate these results is to say that 85%-86% of the measurement of the examination remains constant across years. This suggests that what is being measured on the examination remains stable.

In addition, the relationship between the emphasis of the subject areas in Table 3 as represented by the frequency of occurrence, the average significance rating, and the percent performing provides some information that will inform future examination redevelopment. Specifically, the correlation between the frequency of subject areas being represented on the examination and the average significance rating was 0.48 while the correlation between the frequency of subject area representation and percent performing was 0.70. The correlation between the significance of the topic and the percent performing was 0.83. However, these results should not be over-interpreted based on the limited number of observations (n=12). These results suggest that there is moderate relationship between the content sampling and evidence of importance of subject areas to entry level practice. However, there are likely opportunities to further align the content sampling with subject areas that were rated as more or less significant for entry-level practice.

Evaluating the Content Validation Study

To evaluate the content validation study, we applied Davis-Becker and Buckendahl's (2013) framework for alignment studies. Within this framework, the authors suggested four sources of evidence that should be considered in the validation process: procedural, internal, external, and utility. If threats to validity are observed in these areas, it will inform policymakers' judgments regarding the usefulness of the results and the validity of the interpretation. Evidence within each area that was observed in this study is discussed below.

One important limitation of the study that could pose a threat to the validity of the results is the lack of direct evidence from the MBE. Content validation studies generally involve direct judgments about the characteristics of the examination content. Because examination items (i.e., questions) from the MBE were not available for the study, panelists were asked to make judgments about the content evidence from publicly available subject matter outlines provided by the NCBE. There is then assumption that items coded to these sections of the outline align as intended. However, these assumptions should be directly reviewed. Because

California is using scores from the MBE as an increasingly important component of its decision-making process, it is reasonable to expect that NCBE make forms of the test available for validation studies.¹⁷

Procedural

Procedural evidence was available when considering panelist selection and qualifications, choice of methodology, application of the methodology, and panelists' perspectives about the implementation of the methodology. For this study, the panel that was recruited represented a range of stakeholders: both newer and more experienced attorneys as well as representatives from higher education. Because content validation judgments are more objective in nature (i.e., what does this question measure) as opposed to making standard setting judgments (e.g., how would a minimally competent candidate perform), there are fewer criteria needed with respect to panelist selection other than that they were knowledgeable about the content and familiar with the population of examinees. Again, this was not an activity to determine what *should* be on the examination, but rather, what *is* currently being measured by the examination.

In selecting the methodology for the study, alternative designs were considered. One design could have had panelists making judgments about whether the content and cognitive complexity of the components of the examination were appropriate for entry-level practice. The risk in this approach is the diverse opinions represented by stakeholder groups without a common reference point or link to evidence of what occurs in practice. This type of evidence is typically available following a practice analysis and is then used to build a blueprint from which examination forms are constructed. At that point, such a design could have been implemented because the common reference point would have been the blueprint that was developed with a clear link to practice. However, this information was not available; therefore, this design would have been inappropriate and would have only highlighted individual panelists' opinions or biases (e.g., practitioners' preference for content that aligns with their respective area(s) of practice, high education representatives' preference for content that aligns with their curriculum).

To have a common reference point for panelists to evaluate the alignment of content, we selected the summary results from the 2012 NCBE job analysis study. These results were derived from a national survey that collected information about the knowledge, skills, abilities, and tasks of lawyers. Although the results were not specific to California, it is reasonable to expect that these results would generalize to expectations for attorneys in California. So, the design that included this information along with the evidence from the U.S. Department of Labor's O*NET provided concurrent evidence of the characteristics of attorneys in practice.

For the rating activities, essay questions and the performance task are based on scoring considerations that include multiple traits. Therefore, panelists were asked to breakdown the scoring to proportionally align the parts of these questions that matched with different knowledge, skills, or abilities. To have only evaluated the questions holistically would not have revealed the differential content representation. Given the constructed response aspects of the essay questions and performance task, the methodology and rating tasks were consistent with the types of questions and judgments that could be provided.

¹⁷ For security reasons and to protect the integrity of the empirical characteristics of operational questions, NCBE only makes available practice questions or "retired" questions, but not the entire exam from a specific administration.

With respect to the process evaluation, panelists' perspectives on the process were collected and the evaluation responses were consistently positive suggesting that they understood the process and were confident in their judgments about the content validity. In addition, panelists provided comments about aspects of the process that could be improved. This feedback did not threaten the validity of the results, but does inform some of the suggested next steps for the program.

Internal

The internal evidence for content validation studies can be evaluated by examining the consistency of panelists' ratings and the convergence of the recommendations. One approach to content validity studies is to use one or more rating scales where panelists rate individual questions or score points on different criteria (Davis-Becker & Buckendahl, 2013). Decision rules can then be applied to analyze and evaluate the results along with calculating levels of agreement among the panelists. However, this methodology is often more appropriate with more discrete items.

For this study, the rating tasks and decision rules were based on consensus judgments that occurred based on discussions among panelists following individual ratings. This approach is more qualitative in nature and was selected based on the types of assessment items and corresponding scoring criteria/rubrics that were evaluated (i.e., constructed response) along with the lack of an opportunity for direct judgments on items on the MBE. Although the results should not be interpreted as unanimous support by the panelists, consensus was achieved for the content and cognitive complexity rating tasks.

External

The primary source of external evidence for the study was based on the results of 2012 NCBE job analysis as an indicator of suggested content for entry level practice based on a nationally representative sample of practitioners. In addition, links to the U.S. Department of Labor's O*NET that was updated for lawyers in 2017 were also included to provide another source. The summary results of the NCBE job analysis study included ratings of knowledge, skills, abilities, and tasks.

There is an important caveat to note about NCBE's study. Specifically, because the study was designed and implemented as a task inventory (i.e., a list of knowledge, skills, abilities, and tasks) rather than competency statements, there were many statements that were redundant, overlapping, or that could be consolidated or subsumed within other statements. This means that an activity such as preparing a memo for a client was broken down into its component parts (e.g., critical reading and comprehension, identifying the primary question, distinguishing relevant from irrelevant facts, preparing a written response) were listed as separate statements when these part of the same integrated, job related task. More important, the scoring criteria or rubric would not distinguish these elements and would instead allocate points for skills such as identifying and applying the appropriate legal principles to a given fact pattern or scenario; or drawing conclusions that are supported with reasoning and evidence.

However, the value of the job analysis study is that it served as a common, external source against which to evaluate the content and cognitive complexity of the California Bar Examination. A lack of overlap in some areas should not be interpreted as a fatal flaw due to the design of the job analysis. The results can be used to inform next steps in evaluating validity evidence for the program.

Utility

Evidence of utility is based largely on the extent to which the summative and formative feedback can be used to inform policy and operational decisions related to examination development and validation. The summative information from the study suggests that the content and cognitive complexity as represented by content of the examination are consistent with expectations for entry level attorneys when compared with the highly rated knowledge, skills, and abilities of the 2012 NCBE job analysis.

However, whether the proportional contribution of this content (i.e., the percentage of representation of the range of knowledge, skills, abilities) is being implemented as intended is a question that would need to be evaluated as part of the next steps for the program. The intended representation of content for a credentialing examination is generally informed by a job analysis (also sometimes called a practice analysis or occupational analysis, see Clauser and Raymond (2017) for additional information).

These studies often begin with a focus group or task force that defines the knowledge, skills, and abilities for the target candidate (e.g., minimally competent candidate, minimally qualified candidate) to create task or competency statements. These statements are then typically compiled into a questionnaire that is administered as a survey of practitioners to evaluate the relative emphasis of each statement for entry level practice. The results from the survey can then be brought back to the focus group or task force to discuss and make recommendations to the appropriate policy body about the recommended weighting of content on the examination. This weighting is communicated through an examination blueprint that serves as the guide for developing examinations for the program.

The formative information from the panelists' ratings for the individual essay questions and performance task can be evaluated internally to determine whether this is consistent with expectations. For example, if the panelists judged a question to require a candidate to demonstrate knowledge of a subject area as representing 50% of the measurement the question with the other 50% representing skills, the internal evaluation would ask the question of whether this was intended. This intent is evaluated through the design of the question, the stimulus material contained in it, the specific call of the question for the candidate, and the scoring criteria or rubric associated with the question. The information from this study provided evidence to the program of what is currently being measured by the California Bar Examination, but does not conclude whether this is the information that should be measured on the examination. That type of determination would be a combination of information from a job analysis in concert with discussions about the design.

In addition, the panelists' qualitative discussions about potential structural changes to the examination or whether some content is more appropriate as part of continuing education will be useful for policymaker deliberations and examination development purposes. The summary of this discussion is included as part of comments in Appendix C. However, because this was not a primary goal of the study, this information should be interpreted as a starting point for further study and evaluation, not for decision-making at this point. A program design activity that involves a look at the examination and the related components would be valuable to inform decision-making. For example, a potential design for the California Bar Examination might include the MBE as a measure of federal or cross-jurisdictional competencies, the essay questions may be useful for measuring subject areas of law that are important and unique to California, and the performance task serving as a content-neutral measure of the important skills that lawyers need in practice. However, this is a facilitated activity that is more appropriate for policymakers and practitioners to engage in as a precursor to the job analysis.



Process Evaluation Results

Panelists completed a series of evaluations during the study that included both Likert scale (i.e., attitude rating scale) and open-ended questions. The responses to the Likert scale questions are included in Table 4 and the comments provided are included in Appendix C. With respect to training and preparation, the panelists felt the training session provided them with an understanding of the process and their task. Following the training, the panelists indicated they had sufficient time to complete the rating process and felt confident in the results. The rating scales for questions can be interpreted as lower values being associated with less satisfaction or confidence with higher values being associated with greater satisfaction or confidence with the respective statement. Note that for question 2, panelists were only asked to indicate whether the time allocated for training was too little (1), about right (2), or too much (3).

Table 4. Summary of Process Evaluation Results

	Median	1	2	3	4
1. Success of Training					
Orientation to the workshop	4	0	1	3	6
Overview of alignment	4	0	1	3	6
Discussion of DOK levels	3.5	0	1	4	5
Rating process	3.5	0	1	4	5
2. Time allocation to Training	2	0	9	1	
3. Confidence in Cognitive Complexity Ratings	3	0	1	7	2
4. Time allocated to Cognitive Complexity Ratings	3	0	1	5	4
6. Confidence in Day 1 ratings	4	1	0	2	6
7. Time allocated to Day 1 ratings	3	0	0	5	4
9. Confidence in Day 2 ratings	3	0	0	5	3
10. Time allocated to Day 2 ratings	3.5	0	0	4	4
12. Confidence in Day 3 ratings	3.5	0	0	4	4
13. Time allocated to Day 3 ratings	3.5	0	0	4	4
14. Overall success of the workshop	3.5	0	0	4	4
15. Overall organization of the workshop	4	0	0	3	5



Gap Analysis

The content validation study was designed to evaluate the extent to which content on the California Bar Examination aligned with expectations for entry level practice for lawyers. In addition, a gap analysis was conducted to also respond to the question about what content may be important for entry level practice, but is not currently measured on the examination. For this analysis, two criteria were evaluated.

Specifically, the ratings of significance and percent performing from the NCBE job analysis survey were analyzed. For the purposes of this analysis, if a knowledge, skill, ability, or task (KSAT) statement received a significance rating of 2.5 or higher on a 1-4 scale, it was included as a potential gap. Note that some KSAT statements were not included, because they were ambiguous or not appropriate for the purposes of licensure (e.g., Professionalism, Listening Skills, Diligence). Further, statements that were judged to be subsumed within other statements (e.g., Organizational Skills as an element of Written Communication) are not included to avoid redundancy. The results of this analysis are shown in Table 5.

Table 5. Summary of gap analysis of content not primarily measured on the California Bar Examination.

	Knowledge, Skills, Abilities and Tasks from the NCBE Job Analysis Survey	Link to O*NET	Statement DOK	Significance (Mean)	% Performing
Section I. Knowledge Domains					
5	Research Methodology	K-1	2	2.91	89%
8	Statutory Interpretation	K-1	1	2.83	86%
9	Document Review/Documentary Privileges	K-1	2	2.73	81%
Section II. Skills and Abilities					
92	Using office technologies (e.g., word processing and email)	K-6	1	3.56	99%
102	Answering questions succinctly	N/A	1	3.30	99%
104	Computer skills	K-6	1	3.28	99%
105	Electronic researching	T-8	2	3.26	98%
113	Negotiation	S-7	1	2.97	87%
114	Resource management	K-4, T- 11	1	2.93	96%
115	Interviewing	T-14	1	2.92	91%
118	Attorney client privilege - document reviewing	T-9	3	2.84	86%
119	Trial skills	T-7	1	2.71	68%
120	Legal citation	T-9, T- 15	2	2.67	95%
Section III. General Tasks					
Management of attorney-client relationship and caseload					
124	Establish attorney-client relationship	T-18	2	2.86	76%
125	Establish and maintain calendaring system	T-18	1	2.86	78%

127	Establish and maintain client trust account	T-21	1	2.52	36%
128	Evaluate potential client engagement	T-12	1	2.51	67%
Research and Investigation					
142	Conduct electronic legal research	T-8	2	3.42	96%
143	Research statutory authority	T-8	2	3.38	95%
144	Research regulations and rules	T-8	2	3.31	96%
145	Research judicial authority	T-8	2	3.19	89%
146	Conduct document review	T-8	2	3.10	86%
147	Interview client and client representatives	T-14	2	3.04	77%
148	Conduct fact investigation	T-14	2	2.91	83%
149	Interview witness	T-14	1	2.75	69%
150	Research secondary authorities	T-8	2	2.70	92%
151	Obtain medical records	T-14	1	2.58	61%
152	Conduct transaction due diligence activities	T-2	1	2.54	58%
153	Request public records	T-16	1	2.53	81%
Analysis and resolution of client matters					
157	Analyze law	T-1	3	3.46	97%
158	Advise client	T-2	2	3.20	87%
159	Develop strategy for client matter	T-13	1	3.13	87%
160	Negotiate agreement	T-9, T-10	1	2.93	77%
161	Draft memo summarizing case law, statutes, and regulations, including legislative history	T-15	3	2.81	86%
163	Draft demand letter	T-9	1	2.60	65%
164	Draft legal opinion letter	T-15	2	2.54	76%
165	Draft case summary	T-15	2	2.53	80%



The information from the gap analysis can be used to evaluate the current content representation of the examination to determine whether a) existing elements of measurement should be retained, b) new elements of measurement should be added, and c) the extent to which the current design of the examination supports measurement of the important aspects of the domain. A caution in interpreting these results is that some of the knowledge, skills, abilities, and tasks are not easily measurable in a written examination and may require different types of measurement strategies, some of these being potentially technology enhanced. An additional caution is that the statements from the 2012 NCBE job analysis overlapped with each other and were not mutually exclusive with respect to the tasks that lawyers might perform. For future studies, I would suggest a competency or integrated task statement based approach that is more consistent with the tasks, responsibilities, and activities that lawyers engage with as opposed to discrete aspects of practice.

Conclusions and Next Steps

At a summative level, the results of the content validation study suggest that the current version of the California Bar Examination is measuring important knowledge, skills, and abilities consistent with expectations of entry level attorneys as suggested by results from the 2012 NCBE job analysis. Whether the observed representation and proportional weighting are in alignment with the expectations for California cannot be determined without further evaluation. However, it is important to note that all content on the current examination was judged to align with elements of the NCBE job analysis that were rated as reasonably significant and/or performed frequently in practice. This also included the subject areas that are sampled across years, but were not included in this study.

As recommended next steps for the California Bar Examination in its evaluation of its design and content, the results of the gap analysis and feedback from panelists provide a useful starting point for further discussion. Specifically, from the results of the national survey, skills and tasks were generally interpreted as more generalizable than many of the knowledge domains. Given the diversity of subject areas in the law, this is not surprising. At the same time, it may also suggest that a greater emphasis on skills could be supported in the future. To answer this question, further study is warranted. This additional study would begin with a program design that leads to a job analysis for the practice of law in California. As an examination intended to inform a licensure decision, the focus of the measurement of the examination needs to be on practice and not on the education or training programs. Through this combination of program design and job analysis, results would inform and provide evidence for decisions about the breadth and depth of measurement on the examination along with the relative emphasis (e.g., weighting) of different components.

While the results of this study provided evidence to support the current iteration of the examination, there are also formative opportunities for the program to consider in a program redesign. Specifically, the current design and format for the California Bar Examination has been in place for many years. Feedback from the content validation panelists suggested that there are likely subject areas that could be eliminated or consolidated to better represent important areas needed by all entry-level practitioners.

To briefly reiterate an example described above, from a design perspective, it may be desired to define the components of the examination as a combination of a candidate's competency in federal law, California-specific law, and job-related lawyer skills. Further, if the MBE continues to be included as part of the California Bar Examination, it would be important to be able to review the items on a recently operational form (or forms) of the test to independently evaluate the content and cognitive complexity of the items. If the

California is unable to critically review this component of their program, it should prompt questions about whether it is appropriate to continue to include it as part of their examination.

Similarly, such a redesign activity would offer the program an opportunity to evaluate the assessment item types of the examination (e.g., multiple choice, short answer, extended response), scoring policies and practices for human scored elements (e.g., rubric development, calibration, evaluation of graders), alternative administration methods for components (e.g., linear on the fly, staged adaptive, item level adaptive), and alternative scoring methods for constructed response (e.g., automated essay scoring). Advances in testing practices and technologies as well as the evolution of the practice of law since the last program design activity suggest that this interim study may facilitate additional research questions. As an additional resource about the current practices within credentialing programs, interested readers are encouraged to consult Davis-Becker and Buckendahl (2017) or Impara (1995).

For licensure examination programs, in terms of evidence to define content specifications, the primary basis for evidence of content validity come from the results of a job analysis that provides information about the knowledge, skills, and abilities for entry-level practitioners. Although the results of the 2012 NCBE job analysis were used for this study, it would be appropriate for the program to conduct a state-specific study as is done for other occupations in California to then be used to develop and support a blueprint for the examination. The specifications contained in the blueprint are intended to ensure consistent representation of content and cognitive complexity across forms of the examination. This would strengthen the content evidence for the program and provide an opportunity for demonstrating a direct link between the examination and what occurs in practice. These two activities – program design and job analysis – should be considered as priorities with additional redevelopment and validation activities (e.g., content development, content review, pilot testing, psychometric analysis, equating) occurring as subsequent activities.

Recognizing the interrelated aspects of validation evidence for testing programs, it is valuable to interpret the results of this study and its potential impact on the recently conducted standard setting study for the California Bar Examination. Specifically, the results of the content validation study suggested that most of the content on the examination was important for entry level practice without substantive gaps in what is currently measured on the examination compared with what is expected for practice. However, if the examination is revised in the future, it would likely require revisiting the standard setting study.

References

- Bloom, B., Englehart, M. Furst, E., Hill, W., & Krathwohl, D. (1956). *Taxonomy of educational objectives: The classification of educational goals. Handbook I: Cognitive domain*. New York, Toronto: Longmans, Green.
- Clauser, A. L. & Raymond, M. (2017). Specifying the content of credentialing examinations. In S. Davis-Becker and C. Buckendahl (Eds.), *Testing in the professions: Credentialing policies and practice* (pp. 64-84). New York, NY: Routledge
- Davis-Becker, S. & Buckendahl, C. W. (Eds.), (2017). *Testing in the professions: Credentialing policies and practice*. New York, NY: Routledge.
- Davis-Becker S. & Buckendahl, C. W. (2013). A proposed framework for evaluating alignment studies. *Educational measurement: Issues and practice*, 32(1), 23-33.
- Impara, J.C. (Ed.), (1995). *Licensure testing: Purposes, procedures, and practices*. Lincoln, NE: Buros Institute of Mental Measurements.
- Kane, M. T. (2006). Validation. In R. L. Brennan (Ed.), *Educational measurement* (4th ed., pp. 17-64). Westport, CT: American Council on Education and Praeger.
- Webb, N. L. (1997). Criteria for alignment of expectations and assessments in mathematics and science education (Council of Chief State School Officers and National Institute for Science Education Research Monograph No. 6). Madison, WI: University of Wisconsin, Wisconsin Center for Education Research.

Appendix A – Panelist Information



Content Validity
Panelists.xlsx

Last Name	First Name	City	Role	Years in Practice
Baldwin-Kennedy	Ronda			
Barbieri	Dean			
Cramer	Mark			
Dharap	Shounak			
Gramme	Bridget			
Jackson	Yolanda			
Layon	Richard			
Lozano	Catalina			
Maio	Dennis			
Shultz	Marjorie			

Appendix B – Content Validation Materials and Data

The documentation used in the standard setting are included below.



Overview of
Content Validation 1



Cal Bar Content
Validation Worksho



Cal Bar Content
Validation Worksho



Cal Bar Content
Validation Worksho



NCBE Job Analysis
Summary 2013



O*NET Summary for
Lawyers

California Bar Exam

Content Validation Workshop

Agenda

Tuesday, June 6

7:30 – 8:00	Breakfast
8:00 – 8:30	Introductions and Purpose of the Study
8:30 – 10:00	Initial training Purpose and design of the California Bar Exam Content validation judgments (Job Analysis/O*NET)
10:00 – 10:15	Break
10:15 – 11:45	DOK Ratings for knowledge, skills, and abilities (independent)
11:45 – 12:45	Lunch
12:45 – 2:15	DOK Ratings for knowledge, skills, and abilities (group consensus)
2:15 – 2:30	Complete first evaluation form
2:30 – 2:45	Break
2:45 – 3:45	Begin content validation judgments for first essay question (facilitated) Review scoring rubric/criteria for the question Evaluate content and cognitive complexity match
3:45 – 4:00	Break
4:00 – 4:45	Continue content validation judgments for first essay question (facilitated)
4:45 – 5:00	Complete second evaluation form

Wednesday, June 7th

8:00 – 8:30	Breakfast
8:30 – 9:30	Begin content validation judgments for second/fourth essay question (independent within subgroup) Review scoring rubric/criteria for the question Evaluate content and cognitive complexity match
9:30 – 10:15	Discuss initial content validation judgments for second/fourth essay question (subgroup)
10:15 – 10:30	Break
10:30 – 11:30	Continue content validation judgments for third/fifth essay question (independent)
11:30 – 12:15	Discuss initial content validation judgments for third/fifth essay question (subgroup)
12:15 – 1:00	Lunch
1:00 – 2:15	Begin content validation judgments for performance task (independent) Review scoring rubric/criteria for the question Evaluate content and cognitive complexity match
2:15 – 2:30	Break
2:30 – 3:30	Discuss initial validation judgments for performance task (group)
3:30 – 3:45	Break
3:45 – 4:45	Begin judgments for MBE Subject Matter Outline – content focus (independent)
4:45 – 5:00	Complete third evaluation form

Thursday, June 8

8:00 – 8:30	Breakfast
8:30 – 9:30	Continue judgments for MBE Subject Matter Outline – content focus (independent)
9:30 – 9:45	Break
9:45 – 10:45	Discuss judgments for MBE Subject Matter Outline (group)
10:45 – 11:00	Break
11:00 – 11:45	Continue discussing judgments for MBE Subject Matter Outline
11:45 – 12:00	Complete fourth evaluation form

The purpose of this evaluation is to get your feedback about the various components of the content validation workshop. Please do not put your name on this evaluation form. The information from this evaluation will be used to improve future projects. Thank you!

Training

The training consisted of several components: orientation to the workshop, overview of alignment, discussion of cognitive complexity levels, and training on the rating process.

1. Using the following scale, please rate the success of each training component:

		Rating of Training Success			
Training Components		Very Unsuccessful		Very Successful	
a.	Orientation to the workshop	1	2	3	4
b.	Overview of alignment	1	2	3	4
c.	Discussion of DOK levels	1	2	3	4
d.	Rating process	1	2	3	4

2. How would you rate the amount of time allocated to training?
 - a. Too little time was allocated to training.
 - b. The right amount of time was allocated to training.
 - c. Too much time was allocated to training.

Cognitive Complexity Ratings of Job Analysis/O*NET KSAs

3. How confident were you about the cognitive complexity ratings you made?
 - a. Very Confident
 - b. Somewhat Confident
 - c. Not very Confident
 - d. Not at all Confident
4. How did you feel about the time available to make your cognitive complexity ratings?
 - a. More than enough time was available
 - b. Sufficient time was available
 - c. Barely enough time was available
 - d. There was not enough time available
5. Please provide any comments about the training or cognitive complexity ratings that would help in planning future workshops.

Day 1 Content Validity Judgments

6. How confident were you about your Day 1 judgments of content validity for the California Bar Exam?
 - a. Very Confident
 - b. Somewhat Confident
 - c. Not Very Confident
 - d. Not at all Confident
7. How did you feel about the time allocated for making these judgments?
 - a. More than enough time was available
 - b. Sufficient time was available
 - c. Barely enough time was available
 - d. There was not enough time available
8. Please provide any comments about the Day 1 content validity activities that would be helpful in planning future workshops.

Day 2 Evaluation of Essay Questions and Performance Task

9. How confident were you about your Day 2 judgments of content validity for the California Bar Exam?
 - a. Very Confident
 - b. Somewhat Confident
 - c. Not Very Confident
 - d. Not at all Confident
10. How did you feel about the time allocated for making these judgments?
 - a. More than enough time was available
 - b. Sufficient time was available
 - c. Barely enough time was available
 - d. There was not enough time available
11. Please provide any comments about the Day 2 rating activities that would be helpful in planning future workshops.

Day 3 Evaluation of Content Outline for the MBE

12. How confident were you about your Day 3 judgments of content validity for the California Bar Exam?
 - a. Very Confident
 - b. Somewhat Confident
 - c. Not Very Confident
 - d. Not at all Confident
13. How did you feel about the time allocated for making these judgments?
 - a. More than enough time was available
 - b. Sufficient time was available
 - c. Barely enough time was available
 - d. There was not enough time available

Overall evaluation of the content validation workshop

14. Overall, how would you rate the success of the content validation workshop?
 - a. Very Successful
 - b. Successful
 - c. Unsuccessful
 - d. Very Unsuccessful
15. How would you rate the organization of the content validation workshop?
 - a. Very Organized
 - b. Organized
 - c. Unorganized
 - d. Very Unorganized
16. Please provide any comments about the content validation activities that would be helpful in planning future workshops.

Thank you for your contributions to the Content Validation Workshop!

**Summary of the National Conference of Bar Examiners
Job Analysis Survey Results**

January 2013

Prepared by Susan Case, Ph.D.,
Director of Testing, National Conference of Bar Examiners

Copyright © 2013 by the National Conference of Bar Examiners. PROPRIETARY. All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy or recording, or any information and retrieval system, without permission in writing from the National Conference of Bar Examiners.

Summary of the National Conference of Bar Examiners Job Analysis Survey Results

In 2011 and 2012, Applied Measurement Professionals, Inc. (AMP), conducted a job analysis at the request of the National Conference of Bar Examiners (NCBE). The purpose of the study was to describe the job activities of a newly licensed lawyer in sufficient detail to provide a job-related and valid basis for the development of licensing examinations offered by NCBE.

This summary of the AMP report, *A Study of the Newly Licensed Lawyer*, is divided into the same four sections of a survey that was developed and sent to lawyers, but is reordered here as follows: I. Knowledge Domains, II. Skills and Abilities, III. General Tasks, and IV. Specific Practice Area Tasks. It retains the specific practice area task inventories appearing in the AMP report.

The following pages are organized by section, as outlined above. After the line number for each entry, the first column shows the average significance rating indicated by the respondents (i.e., “Considering importance and frequency, how significant is this entry to your performance as a newly licensed lawyer?”) on a scale of 4 (“Extremely significant”) to 1 (“Minimally significant”). The second column shows the percentage of respondents who indicated that the knowledge domain, skills and ability, or task is performed or used by them in their work. The final column provides a reference back to the full AMP report.

Section I. Knowledge Domains

Line No.	Average Significance*	Percent Performing**	Knowledge Domains	Survey Number
1	3.08	86%	Rules of Civil Procedure	Knowledge 1
2	3.06	88%	Other Statutory and Court Rules of Procedure	Knowledge 3
3	3.01	81%	Rules of Evidence	Knowledge 33
4	2.95	87%	Professionalism	Knowledge 37
5	2.91	89%	Research Methodology	Knowledge 7
6	2.91	84%	Statutes of Limitations	Knowledge 34
7	2.83	93%	Rules of Professional Responsibility and Ethical Obligations	Knowledge 10
8	2.83	86%	Statutory Interpretation	Knowledge 48
9	2.73	81%	Document Review/Documentary Privileges	Knowledge 15
10	2.67	84%	Contract Law	Knowledge 6
11	2.50	61%	Tort Law	Knowledge 12
12	2.50	54%	Criminal Law	Knowledge 14
13	2.47	54%	Rules of Criminal Procedure	Knowledge 2
14	2.40	71%	Other Privileges	Knowledge 16
15	2.38	49%	Personal Injury Law	Knowledge 11
16	2.34	70%	Agency Procedural Rules	Knowledge 5
17	2.33	67%	Law of Business Organizations	Knowledge 13
18	2.32	71%	Administrative Law and Regulatory Practice	Knowledge 4
19	2.31	62%	Principles of Electronic Discovery	Knowledge 43
20	2.30	56%	Real Property Law	Knowledge 32
21	2.29	76%	Constitutional Law	Knowledge 8
22	2.27	49%	Practice Management	Knowledge 85
23	2.26	57%	Basic Accounting	Knowledge 86
24	2.23	52%	Family Law	Knowledge 9
25	2.21	46%	Wills, Probate and Estate Planning	Knowledge 19
26	2.20	67%	Freedom of Information Act/Public Records	Knowledge 45
27	2.19	45%	Insurance Law	Knowledge 83
28	2.18	58%	Alternative Dispute Resolution	Knowledge 71
29	2.16	55%	HIPAA/Privacy Law	Knowledge 57
30	2.15	67%	Legislative Knowledge	Knowledge 30
31	2.11	50%	Landlord-Tenant Law	Knowledge 20
32	2.10	54%	Data Privacy	Knowledge 66
33	2.10	45%	Labor and Employment Law	Knowledge 84
34	2.08	48%	Debtor Creditor	Knowledge 51
35	2.08	49%	Civil Rights	Knowledge 54
36	2.07	65%	Choice of Law and Conflicts of Law	Knowledge 46
37	2.06	53%	Employment Law	Knowledge 17
38	2.06	32%	Uniform Child Custody Jurisdiction and Enforcement Act	Knowledge 61
39	2.04	48%	Secured Transactions	Knowledge 23
40	2.04	43%	Employment Discrimination Law	Knowledge 69
41	2.01	52%	Sales and Leases of Personal Property	Knowledge 24
42	2.01	48%	Bankruptcy	Knowledge 50
43	1.97	53%	Tax Law	Knowledge 35
44	1.96	52%	Negotiable Instruments	Knowledge 25
45	1.96	39%	Securities Law	Knowledge 52
46	1.96	42%	ADA	Knowledge 68
47	1.95	44%	Trust Law	Knowledge 36
48	1.95	41%	Worker's Compensation	Knowledge 62
49	1.95	40%	Consumer Protection Law	Knowledge 65

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section I. Knowledge Domains

Line No.	Average Significance*	Percent Performing**	Knowledge Domains (cont.)	Survey Number
50	1.93	39%	Healthcare Law	Knowledge 58
51	1.93	36%	Juvenile Law	Knowledge 59
52	1.90	39%	Immigration Law	Knowledge 22
53	1.90	41%	Intellectual Property	Knowledge 38
54	1.88	44%	Social Security	Knowledge 67
55	1.86	41%	Government Contract Law	Knowledge 78
56	1.84	42%	ERISA and Other Employee Benefits Law	Knowledge 18
57	1.83	45%	Non-Profit Organizations	Knowledge 49
58	1.83	43%	Employee Benefits	Knowledge 53
59	1.83	35%	Public Employees Discipline and Termination	Knowledge 70
60	1.81	40%	Investment Securities	Knowledge 31
61	1.80	38%	Housing Law	Knowledge 21
62	1.79	43%	Funds Transfers	Knowledge 29
63	1.79	36%	International Law	Knowledge 56
64	1.79	30%	Patent Law	Knowledge 77
65	1.78	35%	Construction Law	Knowledge 64
66	1.76	43%	Bank Deposits	Knowledge 28
67	1.76	38%	Unemployment Compensation	Knowledge 63
68	1.75	42%	Letters of Credit	Knowledge 27
69	1.75	33%	Public Contract Law	Knowledge 81
70	1.69	35%	Mental Health Law	Knowledge 79
71	1.68	32%	Energy	Knowledge 40
72	1.66	28%	Hospital Law	Knowledge 76
73	1.65	32%	Natural Resources	Knowledge 41
74	1.63	32%	Land Use Planning	Knowledge 44
75	1.62	38%	Bills of Lading, Warehouse Receipts, and Other Documents of Title	Knowledge 26
76	1.62	34%	Environment	Knowledge 39
77	1.57	30%	Education Law	Knowledge 47
78	1.56	24%	Indian Law	Knowledge 42
79	1.55	33%	Antitrust	Knowledge 55
80	1.55	29%	Science and Technology Law	Knowledge 82
81	1.51	27%	Public Utility Law	Knowledge 74
82	1.45	22%	Indian Child Welfare Act	Knowledge 60
83	1.42	26%	Transportation Law	Knowledge 72
84	1.42	26%	Communication Law	Knowledge 80
85	1.35	21%	Admiralty Law	Knowledge 73
86	1.25	21%	Bioethics	Knowledge 75

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section II. Skills and Abilities

Line No.	Average Significance*	Percent Performing**	Skills and Abilities	Survey Number
87	3.77	100%	Written communication	Skill/Ability 2
88	3.67	99%	Paying attention to details	Skill/Ability 29
89	3.60	99%	Listening	Skill/Ability 10
90	3.58	99%	Oral communication	Skill/Ability 1
91	3.58	99%	Professionalism	Skill/Ability 3
92	3.56	99%	Using office technologies (e.g. word processing and email)	Skill/Ability 19
93	3.55	98%	Critical reading and comprehension	Skill/Ability 16
94	3.55	97%	Synthesizing facts and law	Skill/Ability 17
95	3.54	99%	Legal reasoning	Skill/Ability 8
96	3.46	99%	Knowing when to go back and ask questions	Skill/Ability 21
97	3.46	99%	Organizational skills	Skill/Ability 26
98	3.44	99%	Working within established time constraints	Skill/Ability 13
99	3.44	99%	Interpersonal skills	Skill/Ability 27
100	3.43	98%	Issue spotting	Skill/Ability 24
101	3.31	98%	Decisiveness	Skill/Ability 18
102	3.30	99%	Answering questions succinctly	Skill/Ability 25
103	3.29	89%	Judgment	Skill/Ability 15
104	3.28	99%	Computer skills	Skill/Ability 22
105	3.26	98%	Electronic researching	Skill/Ability 5
106	3.26	95%	Diligence	Skill/Ability 31
107	3.24	94%	Advocacy	Skill/Ability 9
108	3.22	96%	Fact gathering and evaluation	Skill/Ability 7
109	3.15	97%	Consciousness of personal and professional limitations	Skill/Ability 36
110	3.13	96%	Planning and strategizing	Skill/Ability 32
111	3.10	96%	Information integrating	Skill/Ability 23
112	2.98	97%	Working collaboratively	Skill/Ability 12
113	2.97	87%	Negotiation	Skill/Ability 20
114	2.93	96%	Resource management	Skill/Ability 11
115	2.92	91%	Interviewing	Skill/Ability 28
116	2.87	74%	Courtroom presence	Skill/Ability 33
117	2.85	95%	Creativity	Skill/Ability 35
118	2.84	86%	Attorney client privilege - document reviewing	Skill/Ability 30
119	2.71	68%	Trial skills	Skill/Ability 34
120	2.67	95%	Legal citation	Skill/Ability 4
121	2.31	44%	Jury selection	Skill/Ability 14
122	2.27	91%	Non-electronic researching	Skill/Ability 6

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section III. General Tasks

General Tasks				
---------------	--	--	--	--

Line No.	Average Significance*	Percent Performing**	Management of attorney-client relationship and caseload	Survey Number
123	3.40	95%	Identify issues in case	Task 2
124	2.86	76%	Establish attorney-client relationship	Task 5
125	2.86	78%	Establish and maintain calendaring system	Task 8
126	2.59	88%	Analyze application of rules of professional conduct and related law	Task 6
127	2.52	36%	Establish and maintain client trust account	Task 9
128	2.51	67%	Evaluate potential client engagement	Task 1
129	2.22	50%	Terminate attorney-client relationship	Task 10
130	2.11	60%	Draft engagement letter	Task 3
131	2.05	49%	Draft initial report and budget for client	Task 4
132	1.99	57%	Draft disclosure of potential conflict of interest and waiver	Task 7

Line No.	Average Significance*	Percent Performing**	Communications	Survey Number
133	3.49	89%	Supervising attorney	Task 19
134	3.48	88%	Client	Task 12
135	3.42	83%	Court	Task 17
136	3.33	88%	Counsel for other party	Task 16
137	3.22	93%	Non-lawyer staff	Task 18
138	2.85	83%	Government agency	Task 15
139	2.80	69%	Prospective client	Task 11
140	2.48	62%	Investigator	Task 13
141	2.43	56%	Law enforcement	Task 14

Line No.	Average Significance*	Percent Performing**	Research and Investigation	Survey Number
142	3.42	96%	Conduct electronic legal research	Task 34
143	3.38	95%	Research statutory authority	Task 30
144	3.31	96%	Research regulations and rules	Task 31
145	3.19	89%	Research judicial authority	Task 29
146	3.10	86%	Conduct document review	Task 26
147	3.04	77%	Interview client and client representatives	Task 20
148	2.91	83%	Conduct fact investigation	Task 25
149	2.75	69%	Interview witness	Task 21
150	2.70	92%	Research secondary authorities	Task 32
151	2.58	61%	Obtain medical records	Task 28
152	2.54	58%	Conduct transaction due diligence activities	Task 24
153	2.53	81%	Request public records	Task 27
154	2.38	69%	Investigate the background of opposing party	Task 23
155	2.29	85%	Research legislative history	Task 33
156	2.16	48%	Investigate the scene of the incident	Task 22

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section III. General Tasks

General Tasks (cont.)				
Line No.	Average Significance*	Percent Performing**	Analysis and resolution of client matters	Survey Number
157	3.46	97%	Analyze law	Task 35
158	3.20	87%	Advise client	Task 37
159	3.13	87%	Develop strategy for client matter	Task 36
160	2.93	77%	Negotiate agreement	Task 43
161	2.81	86%	Draft memo summarizing case law, statutes, and regulations, including legislative history	Task 39
162	2.79	72%	Negotiate dispute	Task 42
163	2.60	65%	Draft demand letter	Task 41
164	2.54	76%	Draft legal opinion letter	Task 40
165	2.53	80%	Draft case summary	Task 38

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section IV. Specific Practice Area Tasks

Specific Practice Area Tasks

Line No.	Average Significance*	Percent Reporting**	Administrative Law Tasks (Practice Area for 21 percent of Respondents)	Survey Number
166	3.31	99%	Research agency procedural and substantive rules	Task 44
167	3.12	98%	Review agency opinions and determinations	Task 45
168	2.68	87%	Request documents from administrative agencies	Task 46
169	2.47	74%	Respond to document requests from administrative agencies	Task 47
170	2.67	68%	Prepare application to government agency	Task 48
171	2.60	53%	Advise client on permitting or licensing decisions	Task 49
172	2.59	55%	Advise client regarding benefit eligibility	Task 50
173	2.78	82%	Develop and review administrative records	Task 51
174	3.03	70%	Represent client before administrative agency	Task 52
175	2.85	74%	Draft or respond to petition for review of administrative action	Task 53
176	2.66	52%	Prosecute appeal on denial of eligibility	Task 54
177	2.23	49%	Participate in rulemaking procedures	Task 55

Line No.	Average Significance*	Percent Reporting**	Business Organizations Tasks (Practice Area for 20 percent of Respondents)	Survey Number
178	3.00	87%	Draft documents for formation of business organizations	Task 57
179	2.86	71%	Draft resolutions, written consents, and/or meeting minutes of shareholders and directors	Task 63
180	2.75	86%	Advise client regarding forms of business organizations	Task 56
181	2.67	75%	Draft purchase agreement	Task 59
182	2.54	61%	Draft closing checklist and flow of funds statement	Task 60
183	2.50	71%	Draft non-compete agreement or provisions	Task 65
184	2.46	73%	Draft term sheet or letter of intent for business transactions	Task 58
185	2.46	62%	Evaluate applicability of state and federal securities law	Task 69
186	2.40	47%	Prepare schedules for merger and acquisition transactions	Task 68
187	2.38	67%	Draft employment agreement	Task 67
188	2.27	66%	Negotiate non-compete agreement or provisions	Task 64
189	2.22	55%	Draft merger and acquisition agreement	Task 62
190	2.14	60%	Negotiate employment agreement	Task 66
191	1.99	51%	Negotiate merger and acquisition agreement	Task 61

Line No.	Average Significance*	Percent Reporting**	Civil Litigation Tasks (Practice Area for 43 percent of Respondents)	Survey Number
192	3.25	85%	Draft/respond to motion for summary judgment or other dispositive motion	Task 110
193	3.19	85%	Prepare/respond to request for production (including electronically stored information)	Task 82
194	3.17	79%	Draft answer to complaint	Task 74
195	3.16	80%	Draft summons and complaint	Task 72
196	3.16	92%	Conduct document review	Task 90
197	3.13	85%	Prepare/respond to interrogatories	Task 80
198	3.10	82%	Represent client in court hearing	Task 112
199	3.09	84%	Draft/respond to motion to dismiss	Task 109
200	3.06	82%	Prepare/respond to request for admission	Task 81
201	3.06	84%	Draft/respond to non-dispositive motion	Task 111

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section IV. Specific Practice Area Tasks

Specific Practice Area Tasks (cont.)

Line No.	Average Significance*	Percent Reporting**	Civil Litigation Tasks (cont.) (Practice Area for 43 percent of Respondents)	Survey Number
202	3.03	82%	Analyze deposition testimony	Task 89
203	2.99	84%	Analyze medical/business records	Task 91
204	2.98	79%	Represent client at court conference	Task 96
205	2.95	84%	Draft proposed order	Task 106
206	2.94	81%	Draft/respond to discovery motion	Task 95
207	2.92	86%	Draft affidavits and declarations	Task 78
208	2.89	74%	Conduct/defend deposition	Task 88
209	2.85	78%	Prepare client for testimony	Task 99
210	2.83	75%	Draft release/settlement agreement	Task 103
211	2.79	76%	Draft settlement proposal	Task 102
212	2.79	64%	Draft/assist with appellate brief	Task 128
213	2.78	58%	Perform direct examination and cross-examination	Task 116
214	2.77	61%	Make objections	Task 118
215	2.76	81%	Draft witness and exhibit lists	Task 97
216	2.75	73%	Draft/respond to discovery deficiency letters	Task 92
217	2.74	75%	Draft and serve subpoena duces tecum	Task 100
218	2.73	80%	Resolve discovery disputes	Task 93
219	2.71	62%	Make trial motions	Task 119
220	2.70	75%	Prepare testimony outlines	Task 98
221	2.70	73%	Draft motions in limine	Task 101
222	2.70	60%	Introduce exhibits	Task 117
223	2.70	54%	Represent client at mediation	Task 133
224	2.69	56%	Communicate with insurer	Task 77
225	2.66	68%	Prepare/respond to request for inspection	Task 83
226	2.66	56%	Draft proposed jury instructions	Task 120
227	2.65	63%	Draft/respond to post-judgment motion	Task 123
228	2.65	52%	Present oral argument	Task 129
229	2.64	53%	Present closing argument	Task 122
230	2.63	76%	Prepare pretrial order	Task 113
231	2.62	53%	Draft mediation statement	Task 132
232	2.60	75%	Draft discovery plan	Task 79
233	2.58	73%	Identify/evaluate expert witnesses	Task 86
234	2.51	53%	Present opening statement	Task 115
235	2.49	41%	Represent client at arbitration	Task 134
236	2.48	65%	Prepare expert disclosure	Task 87
237	2.46	53%	Represent client in post-judgment proceedings and other collection activities	Task 124
238	2.43	54%	Prepare or designate record on appeal	Task 127
239	2.42	38%	Analyze Medicare issues in personal injury action	Task 76
240	2.41	60%	Prepare meet-and-confer letter	Task 94
241	2.38	62%	Draft protective order	Task 105
242	2.37	52%	Prepare/respond to request for independent medical examination	Task 84
243	2.36	42%	Negotiate with subrogation claimants and lien holders	Task 125
244	2.34	62%	Prepare privilege log	Task 85
245	2.34	43%	Select jury	Task 114
246	2.29	44%	Draft demand for arbitration and response	Task 130
247	2.28	46%	Prepare offer of judgment	Task 126
248	2.25	43%	Draft contempt documents	Task 121
249	2.23	58%	Draft removal and remand documents	Task 75

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section IV. Specific Practice Area Tasks

Specific Practice Area Tasks (cont.)

Line No.	Average Significance*	Percent Reporting**	Civil Litigation Tasks (cont.) (Practice Area for 43 percent of Respondents)	Survey Number
250	2.18	50%	Draft litigation hold letter	Task 104
251	2.17	57%	Draft petition for extraordinary relief	Task 73
252	2.14	50%	Develop "market value" of similar cases in similar venues	Task 70
253	2.12	28%	Draft foreclosure documents	Task 108
254	2.11	59%	Draft confidentiality agreement	Task 71
255	2.04	35%	Draft settlement brochure	Task 131
256	1.89	32%	Draft civil/criminal forfeiture documents	Task 107

Line No.	Average Significance*	Percent Performing**	Commercial Law Tasks (Practice Area for 12 percent of Respondents)	Survey Number
257	3.28	86%	Draft contracts	Task 135
258	3.03	78%	Draft Terms and Conditions for client forms and agreements	Task 136
259	2.82	62%	Draft resolutions, written consents, and/or meeting minutes of shareholders and directors	Task 149
260	2.80	76%	Analyze loan documents	Task 138
261	2.65	54%	Draft closing checklists and flow of funds statements	Task 144
262	2.63	64%	Draft assignment and assumption agreements	Task 148
263	2.62	66%	Draft asset purchase agreements	Task 141
264	2.51	66%	Perform lien, litigation, and bankruptcy filing searches	Task 150
265	2.50	58%	Draft licensing agreements	Task 137
266	2.49	61%	Draft loan documents	Task 139
267	2.48	61%	Draft term sheet letters of intent for business transaction	Task 143
268	2.44	60%	Draft, perfect, or enforce liens	Task 151
269	2.38	45%	Draft merger and acquisition agreements	Task 146
270	2.36	67%	Analyze issues of insurance coverage	Task 140
271	2.25	54%	Draft UCC financing statements	Task 142
272	2.23	45%	Negotiate merger and acquisition agreements	Task 145
273	2.01	38%	Draft bond documents	Task 147

Line No.	Average Significance*	Percent Performing**	Criminal Law Tasks (Practice Area for 18 percent of Respondents)	Survey Number
274	3.55	87%	Conduct plea negotiations	Task 157
275	3.54	73%	Advise client regarding plea options	Task 159
276	3.42	75%	Try misdemeanor case (jury and non-jury)	Task 167
277	3.39	86%	Raise/respond to suppression/evidentiary issues	Task 166
278	3.30	61%	Try felony case (jury and non-jury)	Task 168
279	3.23	80%	Draft/review plea agreement	Task 160
280	3.16	79%	Prepare/present sentencing arguments	Task 172
281	3.05	80%	Evaluate collateral effects of criminal conviction	Task 171
282	3.00	76%	Interview criminal complainant	Task 152
283	2.93	62%	Represent client in probation violation proceedings	Task 176
284	2.87	53%	Represent client in domestic violence/family offense protective order proceedings	Task 165
285	2.84	65%	Represent client at bail hearing	Task 155
286	2.84	69%	Draft jury instructions	Task 170
287	2.75	68%	Conduct proffer negotiations	Task 158
288	2.75	42%	Represent client in license revocation proceedings	Task 162

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section IV. Specific Practice Area Tasks

Specific Practice Area Tasks (cont.)

Line No.	Average Significance*	Percent Performing**	Criminal Law Tasks (cont.) (Practice Area for 18 percent of Respondents)	Survey Number
289	2.72	75%	Communicate with probation agent	Task 175
290	2.68	62%	Represent client in traffic matters	Task 161
291	2.68	43%	Represent client in juvenile delinquency matters	Task 163
292	2.67	74%	Raise/respond to defendant's mental competency issues	Task 156
293	2.65	49%	Represent client in post-conviction relief proceedings	Task 173
294	2.63	41%	Draft criminal charging documents	Task 154
295	2.53	60%	Conduct pre-charging negotiations	Task 153
296	2.50	35%	Represent client in child protection matters	Task 164
297	2.37	41%	Petition for writ of habeas corpus	Task 174
298	2.22	40%	Litigate property forfeiture issues	Task 169

Line No.	Average Significance*	Percent Performing**	Debtor/Creditor Relations Tasks (Practice Area for 11 percent of Respondents)	Survey Number
299	2.91	82%	Advise client regarding collection options	Task 179
300	2.80	89%	Analyze loan documents	Task 177
301	2.79	62%	Analyze bankruptcy petition and schedules	Task 182
302	2.77	83%	Analyze effects of bankruptcy on enforcement of liens	Task 178
303	2.73	50%	Engage in motion practice in bankruptcy court	Task 188
304	2.68	51%	Draft pleadings in bankruptcy court	Task 187
305	2.65	43%	Represent client in 341 hearing	Task 185
306	2.65	50%	Assess or object to dischargeability	Task 189
307	2.63	45%	Draft complaint for adversary proceedings in bankruptcy	Task 186
308	2.62	63%	Advise client regarding bankruptcy filing options	Task 180
309	2.61	55%	Analyze avoidability of transfers	Task 190
310	2.58	62%	Represent client in post-judgment proceedings and other collection activities	Task 193
311	2.54	45%	Draft bankruptcy petition and schedules	Task 181
312	2.54	45%	Draft debtor's disclosure statement and plan	Task 183
313	2.52	49%	Participate in automatic stay proceedings	Task 191
314	2.46	39%	Draft foreclosure documents	Task 194
315	2.42	42%	Draft claim against bankrupt estate	Task 192
316	2.36	39%	Represent client in bankruptcy committee meeting	Task 184

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section IV. Specific Practice Area Tasks

Specific Practice Area Tasks (cont.)

Line No.	Average Significance*	Percent Performing**	Employment Law Tasks (Practice Area for 11 percent of Respondents)	Survey Number
317	2.94	72%	File and respond to federal and state discrimination claim	Task 206
318	2.89	73%	Represent client on employment rights and obligations	Task 202
319	2.76	80%	Advise client on discipline and termination issues	Task 198
320	2.76	76%	Analyze client practices and procedures in light of employment laws	Task 200
321	2.74	65%	Conduct witness interviews in light of discrimination claim	Task 205
322	2.57	69%	Advise client on disability accommodation issues	Task 199
323	2.41	57%	Draft employment and non-compete agreements	Task 196
324	2.40	55%	Draft employee handbook and employment policies	Task 195
325	2.39	61%	Advise client on unemployment laws	Task 203
326	2.34	33%	Represent client in collective bargaining matters and related proceedings	Task 208
327	2.33	53%	Draft separation agreement	Task 197
328	2.14	32%	Prosecute/defend workers' compensation claim	Task 207
329	2.08	48%	Determine applicability of workers' compensation benefits	Task 201
330	1.91	29%	Draft/revise appeal of denial of employee benefits (ERISA)	Task 204

Line No.	Average Significance*	Percent Performing**	Environmental Law/Natural Resources Tasks (Practice Area for 4 percent of Respondents)	Survey Number
331	3.15	89%	Research applicability of var. fed. and state environmental programs & procedural rules	Task 210
332	2.66	77%	Perform environmental litigation support	Task 221
333	2.64	53%	Support preparation of comments on proposed environmental regulations	Task 222
334	2.61	55%	Draft FOIA requests	Task 218
335	2.51	49%	Perform environmental liability research in real estate transactional contexts	Task 220
336	2.36	55%	Review and analyze Phase 1 environmental reports	Task 211
337	2.26	70%	Negotiate with regulatory authorities	Task 214
338	2.26	62%	Conduct compliance activities and support client in responding to non-compliance issues	Task 215
339	2.23	53%	Draft permit applications	Task 209
340	2.14	40%	Draft conservation agreements	Task 219
341	2.02	57%	Support client during permit application/review process and communications with regulators and opponents of permit	Task 213
342	2.00	58%	Support client during environmental data/information response requests from regulators	Task 212
343	1.81	43%	Draft insurance coverage opinions	Task 217
344	1.76	49%	Draft response to audit reports	Task 216

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section IV. Specific Practice Area Tasks

Specific Practice Area Tasks (cont.)

Line No.	Average Significance*	Percent Performing**	Family Law Tasks (Practice Area for 13 percent of Respondents)	Survey Number
345	3.51	86%	Draft property settlement agreement and documents related to spousal support, child support, and child custody/visitation	Task 236
346	3.50	89%	Represent client in support, child custody, and visitation proceedings	Task 230
347	3.49	88%	Represent client in divorce, property settlement, and child custody hearings	Task 235
348	3.31	84%	Prepare petition for custody	Task 237
349	3.17	86%	Draft motion/brief for modification of prior court order	Task 232
350	3.10	80%	Draft motion/brief for interim relief	Task 231
351	3.10	79%	Draft motion/brief for enforcement of prior court order	Task 240
352	2.95	76%	Represent client in domestic violence/family offense proceedings	Task 226
353	2.82	52%	Represent client in juvenile court proceedings	Task 239
354	2.70	70%	Represent client in paternity proceedings	Task 227
355	2.64	69%	Represent client in abuse and neglect proceedings	Task 228
356	2.56	64%	Represent client in termination of parental rights proceedings	Task 229
357	2.29	59%	Prepare adoption petitions	Task 225
358	2.23	35%	Draft special needs trust documents	Task 238
359	2.15	48%	Prepare placement petitions	Task 224
360	2.11	25%	Represent client in Indian Child Welfare proceedings	Task 234
361	2.09	39%	Analyze tribal jurisdiction	Task 233
362	1.98	54%	Draft prenuptial agreements	Task 223

Line No.	Average Significance*	Percent Performing**	Immigration Law Tasks (Practice Area for 5 percent of Respondents)	Survey Number
364	3.55	91%	Review regulations to determine client's eligibility for immigration benefit	Task 241
365	3.51	81%	Evaluate client's criminal record to determine if conviction/crime renders client deportable or excludable	Task 250
366	3.48	90%	Prepare visa applications and asylum petitions	Task 244
367	3.40	79%	Draft immigration and deportation documents	Task 254
368	3.38	74%	Evaluate collateral effects of criminal conviction	Task 251
369	3.37	90%	Review forms submitted in conjunction with immigration benefit petitions	Task 246
370	3.27	87%	Analyze client's eligibility for relief from removal	Task 249
371	3.16	79%	Represent client in deportation or other immigration proceeding	Task 253
372	3.09	81%	Prepare client for and accompany client to interviews by case adjudicators	Task 252
373	3.03	80%	Review agency and ALJ opinions related to immigration benefits denials	Task 255
374	2.88	70%	Assist client with completion of online forms for consular appointments	Task 247
375	2.51	76%	Communicate with law enforcement	Task 248
376	2.36	53%	Audit client's activities to determine compliance	Task 243
377	2.24	43%	Assist employer in determining legality of workforce	Task 242

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section IV. Specific Practice Area Tasks

Specific Practice Area Tasks (cont.)

Line No.	Average Significance*	Percent Performing**	Intellectual Property Tasks (Practice Area for 7 percent of Respondents)	Survey Number
378	3.14	63%	Review alleged prior art	Task 276
379	3.08	50%	Analyze patentability of invention	Task 264
380	3.04	40%	Draft patent application	Task 266
381	3.02	50%	Draft trademark application	Task 268
382	2.96	62%	Draft cease-and-desist letter	Task 277
383	2.94	72%	Advise client on types of intellectual property protection available for inventions and creations and any gaps in coverage	Task 262
384	2.94	73%	Maintain industry knowledge of intellectual-property-focused industries (e.g., publishing)	Task 281
385	2.89	57%	Negotiate licensing agreement	Task 274
386	2.87	66%	Draft non-disclosure agreement	Task 260
387	2.83	54%	Perform and analyze trademark clearance searches	Task 267
388	2.83	51%	Draft release agreement for use of intellectual property	Task 272
389	2.79	67%	Draft licensing agreement	Task 275
390	2.71	62%	Maintain calendaring system for trademark and patent filings	Task 256
391	2.70	58%	Draft intellectual property assignment agreement for transaction	Task 271
392	2.65	59%	Advise client on maximizing intellectual property portfolio	Task 278
393	2.62	49%	Prepare copyright application	Task 269
394	2.57	60%	Evaluate new technologies' impact on and treatment under existing law	Task 279
395	2.56	53%	Draft intellectual property development agreement	Task 257
396	2.48	47%	Draft work-for-hire agreement	Task 259
397	2.46	56%	Draft website terms of use and privacy policy	Task 261
398	2.46	39%	Identify open-source software licenses and advise client on commercialization of same	Task 273
399	2.45	64%	Advise client on fair use doctrine	Task 270
400	2.44	52%	Review office-specific resources (e.g., Copyright Office circulars)	Task 280
401	2.43	52%	Draft intellectual-property-specific representations and warranties in purchase agreement	Task 258
402	2.38	55%	Prepare intellectual property due diligence checklist	Task 263
403	2.33	45%	Draft invention assignment agreement	Task 265

Line No.	Average Significance*	Percent Performing**	Real Estate Tasks (Practice Area for 10 percent of Respondents)	Survey Number
404	3.23	70%	Draft deed and real estate closing documents	Task 298
405	2.98	75%	Communicate with title agent and other third parties	Task 294
406	2.98	64%	Draft real estate purchase and sale agreement	Task 297
407	2.96	84%	Review and evaluate a title examination/report	Task 293
408	2.96	58%	Conduct real estate closing	Task 296
409	2.92	60%	Represent client in real estate closing	Task 307
410	2.89	55%	Draft closing checklist	Task 295
411	2.89	72%	Draft lease agreement, amendments, and memorandum of lease	Task 300
412	2.85	71%	Represent client in landlord-tenant matters	Task 308
413	2.75	83%	Analyze loan documents	Task 282
414	2.75	46%	Represent client in loan closing	Task 306
415	2.68	70%	Draft power of attorney	Task 287
416	2.64	49%	Draft deeds of trust	Task 310
417	2.62	52%	Draft easements and other servitudes	Task 302
418	2.57	53%	Draft, perfect, or enforce lien	Task 305
419	2.56	75%	Review organizational documents	Task 290
420	2.55	72%	Review and analyze land survey	Task 288

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

Section IV. Specific Practice Area Tasks

Specific Practice Area Tasks (cont.)

Line No.	Average Significance*	Percent Performing**	Real Estate Tasks (cont.) (Practice Area for 10 percent of Respondents)	Survey Number
421	2.40	51%	Represent client in foreclosure proceedings	Task 309
422	2.34	38%	Draft real estate construction agreement	Task 303
423	2.32	60%	Draft loan documents and modifications/amendments	Task 284
424	2.31	55%	Review and analyze environmental reports	Task 289
425	2.31	37%	Draft condominium documents	Task 299
426	2.26	51%	Negotiate with zoning and other regulatory authorities	Task 291
427	2.25	57%	Review insurance certificates	Task 292
428	2.24	44%	Draft operating agreement and division order	Task 304
429	2.23	57%	Negotiate loan document	Task 283
430	2.21	53%	Draft construction/mechanic's lien waiver	Task 286
431	2.14	54%	Draft UCC financing statement	Task 285
432	2.13	37%	Draft land use planning documents	Task 301

Line No.	Average Significance*	Percent Performing**	Wills, Trusts, Estate Planning, and Probate Law Tasks (Practice Area for 12 percent of Respondents)	Survey Number
433	3.32	91%	Draft wills	Task 312
434	3.21	91%	Draft power of attorney	Task 315
435	3.20	85%	Draft healthcare surrogate/healthcare power of attorney	Task 318
436	3.18	91%	Advise client on estate planning matters	Task 311
437	3.15	88%	Draft living will	Task 316
438	3.10	82%	Draft estate plan documents	Task 314
439	3.09	79%	Draft trusts	Task 313
440	2.90	73%	Draft documents for probate proceeding	Task 323
441	2.88	66%	Represent client in probate proceeding	Task 328
442	2.57	52%	Draft closing checklist	Task 324
443	2.57	53%	Prepare/review estate and inheritance tax filings	Task 327
444	2.51	64%	Draft conservatorship/guardianship documents	Task 321
445	2.49	56%	Draft special needs trust	Task 317
446	2.40	55%	Evaluate need for mental competency evaluation	Task 322
447	2.28	45%	Draft claim against estate	Task 325
448	2.17	43%	Draft motion/brief for interim relief	Task 326
449	2.15	49%	Draft prenuptial agreement	Task 320
450	2.09	47%	Draft covenants and restrictions	Task 319

* 1-4 with 4 being extremely significant.

** % reporting this is performed and/or expected of them

O*NET Tasks, Knowledge, Skills, and Abilities

Tasks

T-1	Analyze the probable outcomes of cases, using knowledge of legal precedents.
T-2	Advise clients concerning business transactions, claim liability, advisability of prosecuting or defending lawsuits, or legal rights and obligations.
T-3	Select jurors, argue motions, meet with judges, and question witnesses during the course of a trial.
T-4	Interpret laws, rulings and regulations for individuals and businesses.
T-5	Present evidence to defend clients or prosecute defendants in criminal or civil litigation.
T-6	Represent clients in court or before government agencies.
T-7	Present and summarize cases to judges and juries.
T-8	Study Constitution, statutes, decisions, regulations, and ordinances of quasi-judicial bodies to determine ramifications for cases.
T-9	Prepare, draft, and review legal documents, such as wills, deeds, patent applications, mortgages, leases, and contracts.
T-10	Negotiate settlements of civil disputes.
T-11	Supervise legal assistants.
T-12	Examine legal data to determine advisability of defending or prosecuting lawsuit.
T-13	Evaluate findings and develop strategies and arguments in preparation for presentation of cases.
T-14	Gather evidence to formulate defense or to initiate legal actions, by such means as interviewing clients and witnesses to ascertain the facts of a case.
T-15	Prepare legal briefs and opinions, and file appeals in state and federal courts of appeal.
T-16	Search for and examine public and other legal records to write opinions or establish ownership.
T-17	Confer with colleagues with specialties in appropriate areas of legal issue to establish and verify bases for legal proceedings.
T-18	Perform administrative and management functions related to the practice of law.
T-19	Work in environmental law, representing public interest groups, waste disposal companies, or construction firms in their dealings with state and federal agencies.

T-20	Probate wills and represent and advise executors and administrators of estates.
T-21	Act as agent, trustee, guardian, or executor for businesses or individuals.
T-22	Help develop federal and state programs, draft and interpret laws and legislation, and establish enforcement procedures.

Knowledge

K-1	Law and Government — Knowledge of laws, legal codes, court procedures, precedents, government regulations, executive orders, agency rules, and the democratic political process.
K-2	English Language — Knowledge of the structure and content of the English language including the meaning and spelling of words, rules of composition, and grammar.
K-3	Customer and Personal Service — Knowledge of principles and processes for providing customer and personal services. This includes customer needs assessment, meeting quality standards for services, and evaluation of customer satisfaction.
K-4	Administration and Management — Knowledge of business and management principles involved in strategic planning, resource allocation, human resources modeling, leadership technique, production methods, and coordination of people and resources.
K-5	Personnel and Human Resources — Knowledge of principles and procedures for personnel recruitment, selection, training, compensation and benefits, labor relations and negotiation, and personnel information systems.
K-6	Computers and Electronics — Knowledge of circuit boards, processors, chips, electronic equipment, and computer hardware and software, including applications and programming.

Skills

S-1	Active Listening — Giving full attention to what other people are saying, taking time to understand the points being made, asking questions as appropriate, and not interrupting at inappropriate times.
S-2	Speaking — Talking to others to convey information effectively.
S-3	Reading Comprehension — Understanding written sentences and paragraphs in work related documents.
S-4	Critical Thinking — Using logic and reasoning to identify the strengths and weaknesses of alternative solutions, conclusions or approaches to problems.
S-5	Complex Problem Solving — Identifying complex problems and reviewing related information to develop and evaluate options and implement solutions.
S-6	Judgment and Decision Making — Considering the relative costs and benefits of potential actions to choose the most appropriate one.
S-7	Negotiation — Bringing others together and trying to reconcile differences.

- S-8 **Persuasion** — Persuading others to change their minds or behavior.
- S-9 **Writing** — Communicating effectively in writing as appropriate for the needs of the audience.
- S-10 **Active Learning** — Understanding the implications of new information for both current and future problem-solving and decision-making.
- S-11 **Time Management** — Managing one's own time and the time of others.
- S-12 **Social Perceptiveness** — Being aware of others' reactions and understanding why they react as they do.
- S-13 **Monitoring** — Monitoring/Assessing performance of yourself, other individuals, or organizations to make improvements or take corrective action.
- S-14 **Systems Analysis** — Determining how a system should work and how changes in conditions, operations, and the environment will affect outcomes.
- S-15 **Coordination** — Adjusting actions in relation to others' actions.
- S-16 **Instructing** — Teaching others how to do something.
- S-17 **Service Orientation** — Actively looking for ways to help people.
- S-18 **Learning Strategies** — Selecting and using training/instructional methods and procedures appropriate for the situation when learning or teaching new things.
- S-19 **Systems Evaluation** — Identifying measures or indicators of system performance and the actions needed to improve or correct performance, relative to the goals of the system.

Abilities

- A-1 **Oral Expression** — The ability to communicate information and ideas in speaking so others will understand.
- A-2 **Oral Comprehension** — The ability to listen to and understand information and ideas presented through spoken words and sentences.
- A-3 **Written Comprehension** — The ability to read and understand information and ideas presented in writing.
- A-4 **Speech Clarity** — The ability to speak clearly so others can understand you.
- A-5 **Written Expression** — The ability to communicate information and ideas in writing so others will understand.

- A-6 **Deductive Reasoning** — The ability to apply general rules to specific problems to produce answers that make sense.
- A-7 **Inductive Reasoning** — The ability to combine pieces of information to form general rules or conclusions (includes finding a relationship among seemingly unrelated events).
- A-8 **Information Ordering** — The ability to arrange things or actions in a certain order or pattern according to a specific rule or set of rules (e.g., patterns of numbers, letters, words, pictures, mathematical operations).
- A-9 **Near Vision** — The ability to see details at close range (within a few feet of the observer).
- A-10 **Problem Sensitivity** — The ability to tell when something is wrong or is likely to go wrong. It does not involve solving the problem, only recognizing there is a problem.
- A-11 **Category Flexibility** — The ability to generate or use different sets of rules for combining or grouping things in different ways.
- A-12 **Fluency of Ideas** — The ability to come up with a number of ideas about a topic (the number of ideas is important, not their quality, correctness, or creativity).
- A-13 **Originality** — The ability to come up with unusual or clever ideas about a given topic or situation, or to develop creative ways to solve a problem.
- A-14 **Selective Attention** — The ability to concentrate on a task over a period of time without being distracted.
- A-15 **Speech Recognition** — The ability to identify and understand the speech of another person.

Overview of Content Validation

Content serves as a prioritized source of validity evidence for credentialing (e.g., licensure, certification) examinations (see *Standards for Educational and Psychological Testing*, [AERA, APA, & NCME, 2014]). The process of content validation involves collecting and evaluating evidence alignment of content and response processes (e.g., cognitive complexity, depth of knowledge) with job-related knowledge, skills, abilities, and tasks. Substantive overlap between what is measured by an examination and what occurs in entry level practice is needed to support an argument that the content evidence contributes to valid scores and decisions for the purpose of licensure.

In the content validation study being conducted June 6th-8th, panelists will provide a series of judgments about the evidence of content and response processes for the California Bar Examination. The materials will include results from the most recent National Conference of Bar Examiners (NCBE) job analysis, information from the U.S. Department of Labor's O*NET, exam questions and scoring criteria from the 2016 exam, and the content outline from the Multistate Bar Examination (MBE). The tasks will involve making judgments about:

- Cognitive complexity/Depth of Knowledge – level of response processes for job analysis statements and elements of examination content; and
- Content – fit of score points or subject area topics to job-related content.

Procedurally, these judgments will occur in two phases. Panelists will initially make these judgments independently followed by consensus discussions with the group. This consensus judgment will be recorded by a table lead and used for the analysis.

The findings from the study will be used to evaluate several questions of alignment:

- What is the representation of content and cognitive level of the California Bar Examination score points relative to the knowledge, skill, and task statements of the NCBE job analysis?
- What knowledge and task statements from the NCBE job analysis are NOT covered by the California Bar Exam?
- What California Bar Exam content does NOT align with the knowledge and task statements of the NCBE job analysis?

Following the study, we will prepare a technical report that includes a summary of the alignment findings and results, including evidence of the people, process, results, and decision rules applied during the study.



CALIFORNIA BAR EXAM

Content Validation Workshop

June 6-8, 2017

Chad W. Buckendahl, Ph.D.

PURPOSE OF THE WORKSHOP

- Align test score points and topic areas:
 - Cognitive complexity
 - Content fit
- Communicate results to the Committee of Bar Examiners (CBE)

WHY IS THIS IMPORTANT?

- Support interpretations of candidate performance
 - Want scores to represent important aspects of entry level practice
 - Valid score interpretations
- Professional standards define as a source of evidence for technical quality
 - Content evidence
 - Response processes

WHAT WE ARE NOT ABLE TO CHANGE IN THE WORKSHOP

- Purpose of the examination
- Examination questions
- MBE topics
- Examination grading/scoring criteria

ROLES IN THE PROCESS

- Facilitator
 - Guide panel through standard setting method
- Panelists
 - Use subject matter expertise to evaluate content and cognitive complexity
- California Bar Staff
 - Provide test, policy, and logistics support to panelists and facilitator
- External Evaluator
 - Monitor and evaluate fidelity of the content validation process
- Observers
 - Watch, but not participate or interact with panelists

STEPS IN CONTENT VALIDATION



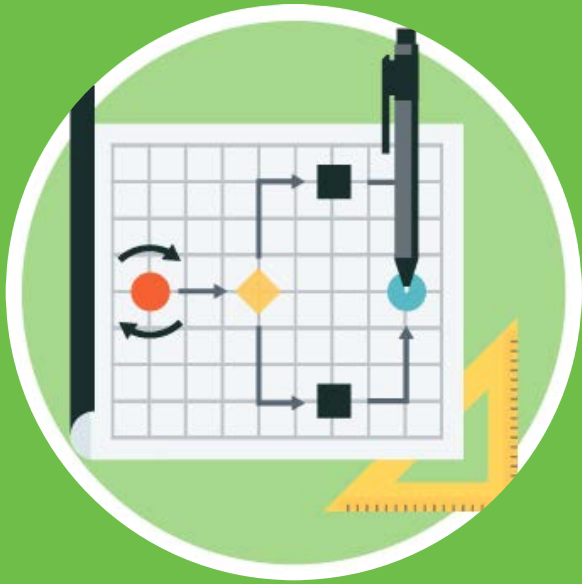
Step 1: Understanding the purpose of the exam

Step 2: Orientation to the structure and scoring of the examination

Step 3: Overview of alignment judgments

Step 4: Initial ratings of content and cognitive complexity followed by consensus discussions

STEP 1: PURPOSE OF THE BAR EXAM



- The purpose of a licensure examination like the California Bar Exam is to distinguish minimally competent candidates from those that could do harm to the public.
- How is this examination different from:
 - Classroom or course assessments
 - Outcomes assessments
 - Certification tests
 - Employment tests

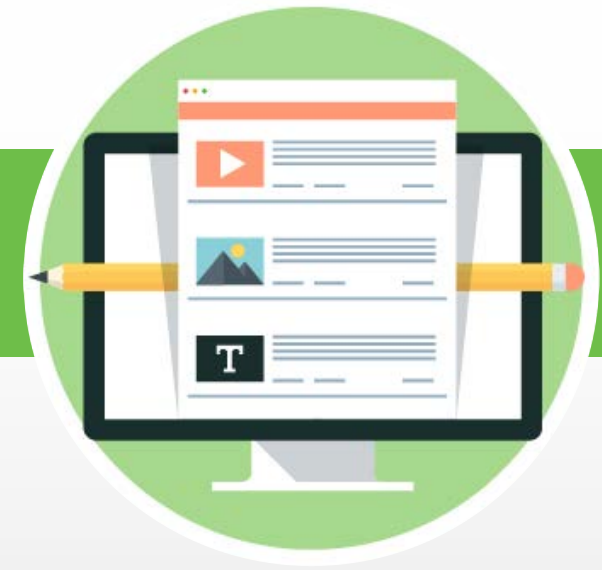
STEP 2: OVERVIEW OF EXAMINATION STRUCTURE



- Components of the California Bar Examination
 - Selected response
 - Multistate Bar Examination
 - Constructed response
 - Essay Questions
 - Performance Task

SCORING CONSTRUCTED RESPONSES

- Scoring criteria/rubrics are question specific
- General scoring structure
 - Issue spotting
 - Identifying elements of applicable law
 - Analysis and application of law to fact pattern
 - Formulating conclusions based on analysis
 - Justification for conclusions



STEP 3: OVERVIEW OF ALIGNMENT JUDGMENTS



- Evaluate cognitive complexity knowledge, skills, and abilities
- Evaluate cognitive complexity of exam score points and topics
- Evaluate content fit of exam score points and topics to knowledge, skills, and abilities

WEBB'S DEPTH OF KNOWLEDGE

- Level 1: Recall and Reproduction
- Level 2: Skills and Concepts
- Level 3: Strategic Thinking
- Level 4: Extended Thinking



LEVEL 1: RECALL AND REPRODUCTION

- Remembering a fact, definition, term, or simple procedure
- Performing a one-step, well-defined, and straight algorithmic procedure
 - Recalling a fact, term, or property
 - Retrieving information from text, a graph, table, or figure

LEVEL 2: SKILLS AND CONCEPTS

- Some mental processing
- Make decisions as to how to approach a problem, more than one step
 - Solving a problem involving application and/or reasoning
 - Retrieving information from text, a graph, table, or figure AND using it to solve a problem
 - Providing a justification for steps in a solution process

LEVEL 3: STRATEGIC THINKING

- Deep knowledge using reasoning, planning, and using evidence
- Complex and abstract
 - Multistep
 - Describing, comparing, and contrasting solution methods
 - Providing domain specific justification

LEVEL 4: EXTENDED THINKING

- Very complex
- Requires complex reasoning, planning, developing, and thinking
- Usually observed over an extended period of time
- Not an intended component of licensure or most education examinations

STEP 4: ALIGNMENT PROCESS

- 1. DOK of the knowledge, skill, or ability
 - NCBE practice analysis/O*NET
- 2. DOK of the score point or topic area
- 3. Content match of score points or topic areas
- How does the item fit within the standard?
 - **Complete/Partial Fit** – significant portion or all of the content fits within a knowledge, skill, or ability
 - **Slight/No Fit** – only a small portion or none of the content fits



STEP 4 (CONT.): OPERATIONAL ALIGNMENT JUDGMENTS

- 5 essay questions (first one facilitated as a group)
- 1 performance task
- MBE topics
- Independent judgments followed by consensus discussion

LIMITATIONS/NEXT STEPS

- No access to the MBE items; limited to topics
- Evaluation of content sampling plan for the Essay Questions and Performance Tasks
- Evaluation of content for the Bar Exam or the MCLE



CONFIDENTIALITY AND NONDISCLOSURE

- Content validation/alignment process is published information and can be shared
- Results of judgments and discussions cannot be shared until the final technical report becomes public

SUMMARY

- Provide independent information to the Committee of Bar Examiners regarding the alignment of the content and response processes of the California Bar Exam to knowledge, skills, and abilities for entry level practitioners
- Thank you in advance for your hard work!

Appendix C – Evaluation Comments

Each panelist completed written evaluations of the content validation process that included several open-ended response questions. The responses provided to each are included below.

Day 1 – Training and DOK Ratings

- Civ[il] Pro[cedure] should be a "3"
- Chad explained things very well and moderated and kept the discussions on pace.
- I think a more in-depth discussion up front about minimal competent lawyer would help with context.
- This was a difficult task for building consensus, largely due to vague and ambiguous terms that were being rated using terms/ratings that were also difficult to define/understand/read agreement about. That said, the process was enlightening and thought-provoking. Thanks for facilitating.
- The job analysis was so BAD, it was useless to do this task. [The job analysis contained] overlap, inconsistency, unclear terms, wouldn't be a minimally competent document.
- Examples illustrating the knowledge levels would be helpful to establish a baseline early on.

Day 1/2 – Content Validation Judgments

- Very good discussion.

Day 2/3 – Content Validation Judgments

- Starting with a large [concept] for each category was helpful in narrowing down. A whiteboard might be more effective/helpful.
- [Sufficient time was available] with the extension into Day 3.
- Having more than one performance test which assessed different skills (i.e., objective vs. persuasive vs. communications with a client/opposing counsel) would be helpful and provide additional information.
- I did feel that some of the ultimate skills we selected may have been subsumed within others and therefore it was difficult to break down, but ultimately I felt good about the final consensus.
- The required use/application of artificial constructs can be frustrating; many overlap. Devising a way to manipulate or modify categories would be very helpful.

Day 3 – Content Validation Judgments and Overall Evaluation

- The MBE section was unclear as to how it would actually affect the Bar.
- Discussion/evaluation of the relative weights of the different components of the Bar Exam i.e. Essay/PT/MBE [would be helpful].
- I felt the MBE portion was difficult to assess without having the questions. Overall, I felt the group was good and we came to consistent conclusions and I felt confident in our results.



Summary of group feedback about the design of the exam¹⁸

Suggestions for elimination

- Remedies (already part of Torts, Contracts, Real Property)

Suggestions for addition

- Skills, additional performance task

Suggestions for MCLE

- 1st year: Professional Responsibilities
- 1st year: Practice Management
- Business Associations
- Wills and Succession
- Trusts

¹⁸ Note that the summary information provided here was based on a brief discussion with panelists during the workshop and should not be interpreted as the outcome of a comprehensive program design activity that would evaluate the structure and substance of the examination.

